

State of Iowa
1978

ACTS AND JOINT RESOLUTIONS

PASSED AT THE

1978 REGULAR SESSION

OF THE

Sixty-seventh General Assembly

OF THE

STATE OF IOWA



WAYNE A. FAUPEL
CODE EDITOR

PHYLLIS BARRY
DEPUTY CODE EDITOR

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Des Moines

CERTIFICATE

STATE OF IOWA
Office of Code Editor

We, Wayne A. Faupel and Phyllis Barry, Editors of the Code of Iowa, do hereby certify that the Acts, laws and joint resolutions and the certificates by the Secretary of State of the publication or filing thereof contained in this volume have been prepared from the original enrolled Acts on file in the office of the Secretary of State and are correct copies of said Acts and are published under the authority of the statutes of this state and constitute the Acts, laws and joint resolutions of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa.

Wayne A. Faupel
Phyllis Barry

June 1978.

Section 622.59 of the 1977 Code of Iowa is as follows:

“Printed copies of the statute laws of this or any other of the United States, or of Congress, or of any foreign government, purporting or proved to have been published under the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts of such state or government, shall be admitted in the courts of this state as presumptive evidence of such laws.”

EDITORS' NOTE

The Acts and Resolutions of the 1978 Regular Session of the Sixty-seventh General Assembly have been printed in this book exactly as they appear on file in the office of the Secretary of State. No attempt has been made to correct misspelled words or errors in punctuation, if any.

In order to expedite the publication of the Session Laws, the editors have resorted to a simple process of offset of the enrolled bills. While this process, perhaps, does not enhance the appearance of the book, it does, however, have the dual advantages of speed and accuracy.

Acts approved by the governor on or after July 1, 1978 are effective August 15, 1978, unless otherwise provided in the Act; See Code § 3.7.

Italics indicate new material added to existing statutes; strike-through letters indicate deleted material.

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		} Filed with
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STATE OFFICERS

STATE ROSTER

List of elective state officers, judges of the supreme and district courts, judicial magistrates and members of the General Assembly, the State of Iowa, inserted in the published volume of 1978 Session Laws for the Sixty-seventh General Assembly in accordance with the requirements of Code section 14.10 (4), 1977 Code of Iowa.

ELECTIVE OFFICERS

Name and Office	County from which originally chosen
GOVERNOR	
ROBERT D. RAY	Polk
Wythe Willey, Executive Assistant	Story
LIEUTENANT GOVERNOR	
ARTHUR A. NEU	Carroll
SECRETARY OF STATE	
MELVIN D. SYNHORST	Polk
J. Herman Schweiker, Deputy Secretary	Polk
AUDITOR OF STATE	
LLOYD R. SMITH	Polk
Deputy Auditor (Vacancy)	
TREASURER OF STATE	
MAURICE E. BARINGER	Fayette
Roger G. Barnett, Deputy Treasurer	Polk
SECRETARY OF AGRICULTURE	
ROBERT H. LOUNSBERRY	Story
Thatcher Johnson, Deputy Secretary	Boone
ATTORNEY GENERAL	
RICHARD C. TURNER	Pottawattamie
Richard E. Haesemeyer, Solicitor General	Polk

JUDICIAL DEPARTMENT

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
C. Edwin Moore, Chief Justice	Des Moines	June 30, 1981
Maurice E. Rawlings	Sioux City	Dec. 31, 1982
Clay LeGrand	Davenport	Dec. 31, 1984
Warren J. Rees	Anamosa	Dec. 31, 1978
Harvey Uhlenhopp	Hampton	Dec. 31, 1980
W. Ward Reynoldson	Osceola	Dec. 31, 1980
K. David Harris	Jefferson	Dec. 31, 1982
Mark McCormick	Des Moines	Dec. 31, 1982
Robert G. Allbee	Des Moines	Dec. 31, 1980

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Allen L. Donielson	Des Moines	Dec. 31, 1978
Bruce M. Snell, Jr.	Ida Grove	Dec. 31, 1978
Leo E. Oxberger	Des Moines	Dec. 31, 1978
James H. Carter	Cedar Rapids	Dec. 31, 1978
Vacancy		

JUDGES OF THE DISTRICT COURT

(Judges listed according to seniority)

Election District 1A

Thomas H. Nelson	Dubuque	Dec. 31, 1978
Joseph C. Keefe	Decorah	Dec. 31, 1978
Karl Kenline	Dubuque	Dec. 31, 1980
L. John Degnan	Guttenberg	Dec. 31, 1982

Election District 1B

Peter Van Metre	Waterloo	June 30, 1983
Carroll E. Engelkes	Waterloo	June 30, 1983
Roger F. Peterson	Waterloo	Dec. 31, 1980
Charles W. Antes, C. J.	West Union	Dec. 31, 1980
Dennis D. Damsgaard	Waterloo	Dec. 31, 1980
Frank D. Elwood	Cresco	Dec. 31, 1980
Leonard D. Lybbert	Waterloo	Dec. 31, 1982
William G. Klotzbach	Independence	Dec. 31, 1978

Election District 2A

L. E. Plummer	Northwood	June 30, 1983
John F. Stone	Mason City	Dec. 31, 1978
B. C. Sullivan	Rockford	Dec. 31, 1978
Jack W. Frye	Charles City	Dec. 31, 1980
Ray E. Clough	Mason City	Dec. 31, 1980

Election District 2B

Paul E. Hellwege	Boone	Dec. 31, 1978
Edward J. Flattery, C. J.	Fort Dodge	Dec. 31, 1978
Arthur F. Draheim, Jr.	Clarion	Dec. 31, 1978
James C. Smith	Carroll	Dec. 31, 1980
George G. Fagg	Marshalltown	Dec. 31, 1980
Russell J. Hill	Webster City	Dec. 31, 1980
Robert K. Richardson	Jefferson	Dec. 31, 1980
Albert L. Habhab	Fort Dodge	Dec. 31, 1982
Milton D. Seiser	Ames	Dec. 31, 1978
David R. Hansen	Eldora	Dec. 31, 1978

Election District 3A

Richard W. Cooper	Storm Lake	June 30, 1983
Murray S. Underwood	Spencer	Dec. 31, 1980
James H. Andreasen	Algona	Dec. 31, 1982
Tom Hamilton	Hartley	Dec. 31, 1978
Charles H. Barlow	Emmetsburg	Dec. 31, 1978

JUDICIAL DEPARTMENT—Continued

Election District 3B

Lawrence W. McCormick	Sioux City	June 30, 1983
James P. Kelley, C. J.	LeMars	Dec. 31, 1982
Donald M. Pendleton	Sioux City	Dec. 31, 1978
George F. Davis	Sioux City	Dec. 31, 1982
David J. Blair	Sioux City	Dec. 31, 1978

Election District 4

Leroy H. Johnson	Red Oak	June 30, 1983
Harold L. Martin	Hamburg	Dec. 31, 1980
Paul H. Sulhoff, C. J.	Council Bluffs	Dec. 31, 1982
Ernest F. Hanson	Audubon	Dec. 31, 1982
Jerry L. Larson	Harlan	Dec. 31, 1982
Leo F. Connolly	Council Bluffs	Dec. 31, 1978

Election District 5A

Don L. Tidrick	Des Moines	June 30, 1983
Gibson C. Holliday, C. J.	Des Moines	June 30, 1983
Maurice C. Herrick	Indianola	Dec. 31, 1978
John N. Hughes, Jr.	Des Moines	Dec. 31, 1978
Harry Perkins, Jr.	Des Moines	Dec. 31, 1978
Dale S. Missildine	Des Moines	Dec. 31, 1978
Robert O. Frederick	Winterset	Dec. 31, 1980
James P. Denato	Des Moines	Dec. 31, 1980
A. B. Crouch	Des Moines	Dec. 31, 1982
Van Wifvat	Perry	Dec. 31, 1978
Anthony M. Critelli	Des Moines	Dec. 31, 1980
Maynard Hayden	Indianola	Dec. 31, 1980
Ray Hanrahan	Des Moines	Dec. 31, 1978
Luther T. Glanton	Des Moines	Dec. 31, 1978
Theodore H. Miller	West Des Moines	Dec. 31, 1978
Richard A. Strickler	Des Moines	Dec. 31, 1978
Ray C. Fenton	Des Moines	Dec. 31, 1978

Election District 5B

A. V. Hass	Chariton	Dec. 31, 1978
Thomas S. Bown	Corydon	Dec. 31, 1978
James E. Hughes	Lenox	Dec. 31, 1978

Election District 6

William R. Eads	Cedar Rapids	Dec. 31, 1982
Harold D. Vietor, C. J.	Cedar Rapids	Dec. 31, 1978
Ansel J. Chapman	Iowa City	Dec. 31, 1982
Robert Osmundson	Iowa City	Dec. 31, 1978
Clinton E. Shaeffer	Cedar Rapids	Dec. 31, 1978
John L. Hyland	Toledo	Dec. 31, 1978
Louis W. Schultz	Marengo	Dec. 31, 1980
A. Frederick Honsell, Jr.	Cedar Rapids	Dec. 31, 1980
Robert E. Ford	Cedar Rapids	Dec. 31, 1978
Harold Swailes	Belle Plaine	Dec. 31, 1978

Election District 7

Nathan Grant, C. J.	Davenport	June 30, 1983
Lowell D. Phelps	Davenport	Dec. 31, 1982
Robert K. Stohr	Muscatine	Dec. 31, 1978
James R. Havercamp	Davenport	Dec. 31, 1980
Allan Keck	Maquoketa	Dec. 31, 1978
Max R. Werling	Tipton	Dec. 31, 1980
Charles H. Pelton	Clinton	Dec. 31, 1982
Lawrence D. Carstensen	Clinton	Dec. 31, 1982
Margaret Stevenson Briles	Davenport	Dec. 31, 1978

Election District 8A

L. R. Carson	Oskaloosa	June 30, 1983
Charles N. Pettit	Bloomfield	June 30, 1983
Arthur A. McGiverin, C. J.	Ottumwa	Dec. 31, 1978
Ira Morrison	Washington	Dec. 31, 1978
Phillip R. Collett	Ottumwa	Dec. 31, 1978
Dick Schlegel	Ottumwa	Dec. 31, 1980

Election District 8B

William S. Cahill	Burlington	Dec. 31, 1980
Harlan W. Bainter	Mount Pleasant	Dec. 31, 1978
David B. Hendrickson	Keokuk	Dec. 31, 1980

JUDICIAL DEPARTMENT—Continued

DISTRICT ASSOCIATE JUDGES

Name	City and County	Term Expires
Gary J. Snyder	Burlington, Des Moines	Dec. 31, 1978
Forest E. Eastman	Cedar Falls, Black Hawk	Dec. 31, 1978
Lynne E. Brady	Cedar Rapids, Linn	Dec. 31, 1978
Anthony R. Scolaro	Cedar Rapids, Linn	Dec. 31, 1978
John F. Siebenmann	Cedar Rapids, Linn	Dec. 31, 1978
Ross F. Caniglia	Council Bluffs, Pottawattamie	Dec. 31, 1978
Jack F. Broderick	Davenport, Scott	Dec. 31, 1978
Don Petrucelli	Davenport, Scott	Dec. 31, 1978
Phillip T. Steffen, Jr.	Davenport, Scott	Dec. 31, 1978
Norman D. Elliott	Des Moines, Polk	Dec. 31, 1978
Thomas A. Renda	Des Moines, Polk	Dec. 31, 1978
Frank D. Gilloon, Jr.	Dubuque, Dubuque	Dec. 31, 1978
Roger R. Halleck	Marshalltown, Marshall	Dec. 31, 1978
Jack L. Burns	Muscatine, Muscatine	Dec. 31, 1978
John M. Fachman	Sioux City, Woodbury	Dec. 31, 1978
Everett H. Scott	Waterloo, Black Hawk	Dec. 31, 1978

IOWA JUDICIAL MAGISTRATES

(Full-time)

Leslie L. Boomhower Judicial Magistrate R.R. 4 Mason City, IA 50401	Max H. Ruschmeyer Judicial Magistrate Courthouse Ottumwa, IA 52501
Vincent M. Hanrahan Judicial Magistrate East 1st & Court Des Moines, IA 50309	Glenn C. Sedgwick Judicial Magistrate 2037 Ferndale Avenue Ames, IA 50010
Joel J. Kamp Judicial Magistrate Courthouse Fort Madison, IA 52627	George L. Stigler Judicial Magistrate Waterloo City Hall Waterloo, IA 50703
Matthew McEniry Judicial Magistrate 5th & Mulberry Des Moines, IA 50309	Joseph Thornton Judicial Magistrate 2400 Tudor Drive Iowa City, IA 52240
Dan R. McTaggart Judicial Magistrate Courthouse Council Bluffs, IA 51501	Francis E. Tierney Judicial Magistrate Courthouse Fort Dodge, IA 50501
Albert C. Omer Judicial Magistrate Courthouse Newton, IA 50208	Arlen J. Van Zee Judicial Magistrate Courthouse Clinton, IA 52732
Alan L. Pearson Judicial Magistrate Courthouse Dubuque, IA 52001	Rodney D. Vellinga Judicial Magistrate Municipal Building Sioux City, IA 51103

SUBSTITUTE FULL-TIME MAGISTRATES

DICKINSON	POLK
Cameron B. Arnold Judicial Magistrate Box ON, Courthouse Spirit Lake, IA 51360	Ben E. Kubby Judicial Magistrate East 1st and Court Des Moines, IA 50309
DES MOINES	Louis A. Anania Judicial Magistrate 211 E. Edison Des Moines, IA 50315
Thomas R. Brown Judicial Magistrate Box 954 Burlington, IA 52601	WARREN
LINN	John P. Crouch Judicial Magistrate 207 W. 1st Avenue Indianola, IA 50125
Brent G. Harstad Judicial Magistrate 305 2nd Avenue, SE Cedar Rapids, IA 52401	MAHASKA
STORY	Charles A. Stream Judicial Magistrate 810 South 6th Street Oskaloosa, IA 52577
Gordon Young Judicial Magistrate Courthouse Nevada, IA 50201	WOODBURY
	William E. Adams Judicial Magistrate Municipal Building Sioux City, IA 51101

JUDICIAL DEPARTMENT—Continued

IOWA JUDICIAL MAGISTRATES

Listed By County

(Part-time)

Adair

John E. Wietzke
Judicial Magistrate
Greenfield, IA 50849

Adams

Joe Jones
Judicial Magistrate
700-10th Street
Corning, IA 50841

Allamakee

Alan J. Drolet
Judicial Magistrate
P.O. Box 23
Waukon, IA 52172

Appanoose

James E. Brunt
Judicial Magistrate
R.R. 2
Centerville, IA 52544

Warren H. McQuary
Judicial Magistrate
801 W. Wall Street
Centerville, IA 52544

Audubon

Joseph M. Sklenar
Judicial Magistrate
324 Washington
Audubon, IA 50025

Benton

Wendell T. Edwards
Judicial Magistrate
P.O. Box 86
Vinton, IA 52349

David E. Weichman
Judicial Magistrate
218 First Street, E
Newhall, IA 52315

Black Hawk

Sally B. McLendon
Judicial Magistrate
907 Meadow Lane
Waterloo, IA 50702

Howard Nicholson
Judicial Magistrate
2240 Easley
Waterloo, IA 50702

Gordon C. Richards
Judicial Magistrate
1613 Bertch Avenue
Waterloo, IA 50702

John B. Schneider
Judicial Magistrate
1122 West 3rd
Cedar Falls, IA 50613

Forrest J. Shaulis
Judicial Magistrate
4211 Crestview Drive
Cedar Falls, IA 50613

Boone

Stanley R. Simpson
Judicial Magistrate
P.O. Box 217
Ogden, IA 50212

R. Clair Sparks
Judicial Magistrate
323 State Street
Boone, IA 50036

Bremer

James L. Brandau
Judicial Magistrate
308 - 5th Avenue, NW
Waverly, IA 50677

Raymond L. Fredrick
Judicial Magistrate
R.R. 2
Waverly, IA 50677

Buchanan

V. G. McSweeney
Judicial Magistrate
612 - 4th Avenue, NE
Independence, IA 50644

John E. Meyer
Judicial Magistrate
121 1/2 First St., E
Independence, IA 50644

Buena Vista

James W. Gailey
Judicial Magistrate
P.O. Box 343
Newell, IA 50568

James A. Schall
Judicial Magistrate
5th & Cayuga Streets
Storm Lake, IA 50588

Butler

William Nolte
Judicial Magistrate
R.R.
Dumont, IA 50625

Richard W. Vickers
Judicial Magistrate
215 W. Traer Street
Greene, IA 50636

Calhoun

Robert E. Taylor
Judicial Magistrate
752 Richmond
Rockwell City, IA 50579

Carroll

Raymond O. Snook
Judicial Magistrate
Glidden, IA 51443

Ronald F. Eich
Judicial Magistrate
815 N. Main Street
Carroll, IA 51401

JUDICIAL DEPARTMENT—Continued

Cass

John E. Budd
Judicial Magistrate
Courthouse
Atlantic, IA 50022

Richard O. Habermann
Judicial Magistrate
Courthouse
Atlantic, IA 50022

Cedar

Robert Stenander
Judicial Magistrate
Tipton, IA 52772

Roger D. Freese
Judicial Magistrate
Clarence, IA 52216

Cerro Gordo

Kenneth W. Carey
Judicial Magistrate
1315 - 10th St., SE
Mason City, IA 50401

John R. Cherry
Judicial Magistrate
R. 1, Dodges Point Beach
Clear Lake, IA 50428

Roland P. McGee
Judicial Magistrate
Courthouse
Mason City, IA 50401

Cherokee

Woodrow Terry
Judicial Magistrate
432 East Spruce Street
Cherokee, IA 51012

Thomas Warrender
Judicial Magistrate
221 S. 7th Street
Cherokee, IA 51012

Chickasaw

Kathleen R. Seamans
Judicial Magistrate
Fredericksburg, IA 50630

James M. Demro
Judicial Magistrate
Box 325
Nashua, IA 50658

Clarke

Charles D. Edwards
Judicial Magistrate
Osceola, IA 50213

Edith L. Kearney
Judicial Magistrate
Osceola, IA 50213

Clay

Clare C. Wheeler
Judicial Magistrate
115 - 4th Avenue, W
Spencer, IA 51301

Philip L. Hurst
Judicial Magistrate
Courthouse
Spencer, IA 51301

Clayton

Benedict J. O'Meara
Judicial Magistrate
709 - 1st, NW
Elkader, IA 52043

Rosemary L. Tuecke
Judicial Magistrate
215 N. 1st Street
Guttenberg, IA 52052

Clinton

Frank Hall
Judicial Magistrate
Low Moor, IA 52757

James Richmond
Judicial Magistrate
DeWitt, IA 52742

Crawford

Joseph L. Boddicker
Judicial Magistrate
39 Pleasant Street
Denison, IA 51442

Arlo J. Schoenfeld
Judicial Magistrate
R. 2
Charter Oak, IA 51439

Dallas

Henry A. Hollis
Judicial Magistrate
1619 W. 2nd Street
Perry, IA 50220

Shirley L. Horan
Judicial Magistrate
1208 Green Street
Adel, IA 50003

Davis

Martin H. Walton
Judicial Magistrate
306 S. Madison
Bloomfield, IA 52537

Decatur

Howard E. Strand
Judicial Magistrate
Lamoni, IA 50140

JUDICIAL DEPARTMENT—Continued

Delaware

Hope Toomer
Judicial Magistrate
Delhi, IA 52223

Norma Ann Campbell
Judicial Magistrate
Manchester, IA 52057

Dubuque

Gayelle Blum
Judicial Magistrate
4934 Asbury Road
Dubuque, IA 52001

Elmer Ressler
Judicial Magistrate
105 East Main Street
Epworth, IA 52045

Emmet

Marilyn Loebach
Judicial Magistrate
R.R. 2
Estherville, IA 51334

Harmon Veldey
Judicial Magistrate
Courthouse
Estherville, IA 51334

Fayette

Richard L. Stofer
Judicial Magistrate
201 Occo Drive, SE
Oelwein, IA 50662

John W. D. Hofmeyer
Judicial Magistrate
Box 126
Fayette, IA 52142

Floyd

Robert B. Gilliland
Judicial Magistrate
Charles City, IA 50616

Robert J. Waller
Judicial Magistrate
Rockford, IA 50468

Franklin

Harold A. Jahnke
Judicial Magistrate
421 Central Ave., E
Hampton, IA 50441

Fremont

Edgar Arnold
Judicial Magistrate
R.R. 1
Shenandoah, IA 51601

Greene

B. Jack Hauptert
Judicial Magistrate
806 S. Elm
Jefferson, IA 50129

Grundy

Charles I. Goodman
Judicial Magistrate
627 G. Avenue
Grundy Center, IA 50638

E. Duane Greany
Judicial Magistrate
904 - 11th Street
Grundy Center, IA 50638

Guthrie

Elaine Messinger
Judicial Magistrate
Menlo, IA 50164

Hamilton

Edna Rodenborn
Judicial Magistrate
630 - 2nd Street
Webster City, IA 50595

G. D. Warland
Judicial Magistrate
823 High Street
Webster City, IA 50595

Hancock

Lee E. Nikolas
Judicial Magistrate
122 N. Main Street
Kanawha, IA 50447

Hardin

Elizabeth E. Johnston
Judicial Magistrate
1009 Coyla
Iowa Falls, IA 50126

Craig O. Froning
Judicial Magistrate
1102 - 11th Avenue
Eldora, IA 50627

Harrison

Donald Drustrup
Judicial Magistrate
Missouri Valley, IA 51555

Edward W. Houston
Judicial Magistrate
Dunlap, IA 51529

Henry

Roger S. Galer
Judicial Magistrate
Mt. Pleasant, IA 52641

Robert L. Hansen
Judicial Magistrate
New London, IA 52645

Howard

James W. Ritchie
Judicial Magistrate
P.O. Box 114
Cresco, IA 52136

JUDICIAL DEPARTMENT—Continued

Humboldt

Steven K. Sandblom
Judicial Magistrate
P.O. Box 66
Humboldt, IA 50548

Ida

Dr. K. W. Gray
Judicial Magistrate
Galva, IA 51020

JoAnn D. Heath
Judicial Magistrate
401 Moorehead Street
Ida Grove, IA 51445

Iowa

Thomas M. Buchanan
Judicial Magistrate
Williamsburg, IA 52361

Jane McHarg
Judicial Magistrate
Victor, IA 52347

Jackson

Ronald J. Besch
Judicial Magistrate
204 N. 6th
Bellevue, IA 52031

Graham Moyer
Judicial Magistrate
R.R. 3
Maquoketa, IA 52080

Jasper

Thomas W. Mott
Judicial Magistrate
704 W. 4th Street, S
Newton, IA 50208

Jefferson

Wallace Hackett
Judicial Magistrate
910 S. Main Street
Fairfield, IA 52556

Ida M. Horn
Judicial Magistrate
Courthouse
Fairfield, IA 52556

Johnson

L. Jay Stein
Judicial Magistrate
206 Dey Building
Iowa City, IA 52240

Emmit J. George, Jr.
Judicial Magistrate
326 South Clinton
Iowa City, IA 52240

Theodore L. Kron
Judicial Magistrate
330 E. Court Street
Iowa City, IA 52240

Leon Spies
Judicial Magistrate
411 Iowa St. Bank Bldg.
Iowa City, IA 52240

Jones

Larry J. Conmey
Judicial Magistrate
106 E. Main
Anamosa, IA 52205

C. J. Matthiessen
Judicial Magistrate
205 W. 1st Street
Monticello, IA 52310

Keokuk

Dan F. Morrison
Judicial Magistrate
Professional Bldg.
Sigourney, IA 52591

Kossuth

William J. Finn
Judicial Magistrate
1702 East Lucas
Algona, IA 50511

Mark S. Soldat
Judicial Magistrate
Algona, IA 50511

Lee

Leon A. Conrad
Judicial Magistrate
Courthouse
Fort Madison, IA 52627

Colleen S. LeMaster
Judicial Magistrate
415 Blondeau Street
Keokuk, IA 52632

John Pepple
Judicial Magistrate
415 Blondeau Street
Keokuk, IA 52632

Linn

James Bennett
Judicial Magistrate
1039 - 25th Street, NE
Cedar Rapids, IA 52402

Donna L. Paulsen
Judicial Magistrate
830 Higley Building
Cedar Rapids, IA 52406

Louisa

Neal R. Kemp
Judicial Magistrate
803 Isett
Wapello, IA 52653

Lucas

James B. Mefferd
Judicial Magistrate
307 N. Main Street
Chariton, IA 50049

Lyon

Lewis P. Baker
Judicial Magistrate
213 1/2 First Ave.
Rock Rapids, IA 52146

JUDICIAL DEPARTMENT—Continued

Madison

June Patton
Judicial Magistrate
Courthouse
Winterset, IA 50273

Marion

James K. Marvel
Judicial Magistrate
1302 Main
Pella, IA 50219

Norman R. Hays
Judicial Magistrate
111 E. Robinson
Knoxville, IA 50138

Marshall

Susan S. Klaessy
Judicial Magistrate
1706 Olson Way
Marshalltown, IA 50158

Mills

Esther Engle
Judicial Magistrate
RFD 2
Glenwood, IA 51534

John C. Watson
Judicial Magistrate
607 N. Hazel Street
Glenwood, IA 51534

Mitchell

Eugene A. Groe
Judicial Magistrate
618 Main Street
Osage, IA 50461

Monona

Harold Loomis
Judicial Magistrate
Onawa, IA 51040

Michael McGrane
Judicial Magistrate
Mapleton, IA 51034

Monroe

Helen O'Brien
Judicial Magistrate
236 West Benton
Albia, IA 52531

Montgomery

Donald R. Askey
Judicial Magistrate
Courthouse
Red Oak, IA 51566

Betty Wenstrand
Judicial Magistrate
501 Maple Street
Red Oak, IA 51566

Muscatine

David R. LaFontaine
Judicial Magistrate
411 Laurel Building
Muscatine, IA 52761

Edmund Barry
Judicial Magistrate
112 1/2 East 3rd St.
West Liberty, IA 52776

O'Brien

Vacancy

Osceola

Karl Huenemann
Judicial Magistrate
Sibley, IA 51249

Page

Darrell L. Knittle
Judicial Magistrate
P.O. Box 411
Shenandoah, IA 51601

Wendell D. Leonard
Judicial Magistrate
423 West Logan St.
Clarinda, IA 51632

Palo Alto

Joseph L. Hanson
Judicial Magistrate
Emmetsburg, IA 50536

Plymouth

Francis Tritz
Judicial Magistrate
Remsen, IA 51050

E. R. Scholer
Judicial Magistrate
LeMars, IA 51031

Pocahontas

Donald M. Winkler
Judicial Magistrate
Laurens, IA 50554

Polk

William P. Mahedy
Judicial Magistrate
404 Lincoln Court
Des Moines, IA 50312

JUDICIAL DEPARTMENT—Continued

Pottawattamie

C. R. Hannan
Judicial Magistrate
404 Park Building
Council Bluffs, IA 51501

Donald F. Heath
Judicial Magistrate
Rt. 5, Box 49
Council Bluffs, IA 51501

Erik Olsen
Judicial Magistrate
424 Chestnut
Avoca, IA 51521

Oliver O. Over, Jr.
Judicial Magistrate
604 S. Main
Council Bluffs, IA 51501

Edith Sargent
Judicial Magistrate
Carson, IA 51525

Norma Van Beck
Judicial Magistrate
Avoca, IA 51521

Poweshiek

Nicholas M. Norden
Judicial Magistrate
Montezuma, IA 50171

Elsie Minner
Judicial Magistrate
Montezuma, IA 50171

Ringgold

J. N. Chicken
Judicial Magistrate
106 N. Cass Street
Mount Ayr, IA 50854

Sac

David E. Fitzgerald
Judicial Magistrate
811 Main Street
Sac City, IA 50583

Truman Reida
Judicial Magistrate
Lake View, IA 51450

Scott

Paul A. Beckman
Judicial Magistrate
2810 Jersey Ridge Rd.
Davenport, IA 52803

George A. Goebel
Judicial Magistrate
121 W. Locust Street
Davenport, IA 52803

Alan R. Haverkamp
Judicial Magistrate
2737 Carriage Hill Dr.
Davenport, IA 52803

James L. Ottesen
Judicial Magistrate
2542 E. 46th Street
Davenport, IA 52803

Norman M. Peterson
Judicial Magistrate
514 E. Geo. Washington Bl.
Davenport, IA 52803

Shelby

Lorna M. Tinsley
Judicial Magistrate
Harlan, IA 51537

Sioux

Harlan W. Hummel
Judicial Magistrate
Hawarden, IA 51023

Richard L. Smith
Judicial Magistrate
Hawarden, IA 51023

Tama

George Stein
Judicial Magistrate
Toledo, IA 52342

John Felts
Judicial Magistrate
Traer, IA 50675

Taylor

Jack R. Campbell
Judicial Magistrate
Blockton, IA 50836

Union

L. R. Emerson
Judicial Magistrate
606 New York Avenue
Creston, IA 50801

Van Buren

James W. McGrath
Judicial Magistrate
Keosauqua, IA 52565

Wapello

Fred L. Nydle
Judicial Magistrate
436 E. Manning
Ottumwa, IA 52501

Kenneth W. Luke
Judicial Magistrate
1956 Gladstone
Ottumwa, IA 52501

Washington

Thomas J. Potter
Judicial Magistrate
P.O. Box 190
Wellman, IA 52356

M. Jane Zielstorf
Judicial Magistrate
715 N. 8th Street
Washington, IA 52353

Wayne

Sheila Ann Harned
Judicial Magistrate
Courthouse
Corydon, IA 50060

JUDICIAL DEPARTMENT—Continued

Webster

Francis H. Allen
Judicial Magistrate
RFD 2
Fort Dodge, IA 50501

Dan T. McGrevey
Judicial Magistrate
Snell Bldg.
Fort Dodge, IA 50501

Kurt Wilke
Judicial Magistrate
Beh Building
Fort Dodge, IA 50501

Winnebago

Richard A. Potter
Judicial Magistrate
303 - 6th Ave., NE
Buffalo Center, IA 50424

Winneshiek

W. C. Schrubbe
Judicial Magistrate
104 1/2 Winnebago St.
Decorah, IA 52101

Robert Hitesman
Judicial Magistrate
P.O. Box 477
Calmar, IA 52132

Woodbury

Lois M. Hobbs
Judicial Magistrate
R. 1
Sloan, IA 51055
Delbert D. Rowse
Judicial Magistrate
P.O. Box 53
Correctionville, IA 51016

Worth

Craig G. Ensign
Judicial Magistrate
Northwood, IA 50459

Wright

William A. Long
Judicial Magistrate
Eagle Grove, IA 50533
Robert Malloy
Judicial Magistrate
Goldfield, IA 50542

GENERAL ASSEMBLY

MEMBERS OF THE SENATE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION

Name	Address	Age	Occupation	Senatorial District	Former Legislative Service
*Ashcraft, Forrest F.	Davenport	55	Assistant Chief of Police (Retired)	41st—Scott	67 (1st), 67X
Bergman, Irvin L.	Harris	66	Farmer, Businessman	2nd—Osceola, Clay, Dickinson, Emmet, Lyon, O'Brien, Palo Alto, Sioux	62, 63, 64, 65, 66, 67 (1st), 67X
*Bisenius, Stephen W.	Cascade	30	Realtor Associate	11th—Dubuque, Delaware, Jackson, Jones	67 (1st), 67X
Briles, James E.	Corning	51	Auctioneer, Real Estate	48th—Adams, Adair, Cass, Guthrie, Montgomery, Page, Ringgold, Taylor, Union	56, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X
*Burroughs, Cliff	Greene	60	Securities Sales	19th—Butler, Black Hawk, Bremer, Floyd, Franklin, Grundy, Marshall, Tama	65 (2nd), 66, 67 (1st), 67X
Calhoon, James	Sioux City	29	Meat Cutter	26th—Woodbury, Monona	67 (1st), 67X
Carr, Robert M.	Dubuque	40	Securities Broker	10th—Dubuque	65, 66, 67 (1st), 67X
*Coleman, C. Joseph	Clare	54	Farmer, Businessman	23rd—Webster, Humboldt	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X
Craft, Rolf V.	Decorah	40	Teacher, Farmer	8th—Winneshiek, Bremer, Chickasaw, Fayette, Howard	67 (1st), 67X
*Culver, Louis P.	Dunlap	69	Farmer	27th—Harrison, Crawford, Monona, Pottawattamie, Shelby	66, 67 (1st), 67X
*Curtis, Warren E.	Cherokee	63	Certified Public Accountant	3rd—Cherokee, Buena Vista, Clay, O'Brien, Palo Alto, Plymouth, Pocahontas	64, 65, 66, 67 (1st), 67X
*DeKoster, Lucas J.	Hull	59	Lawyer	1st—Sioux, Lyon, Plymouth	61, 62, 63, 64, 65, 66, 67 (1st), 67X

MEMBERS OF THE SENATE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION—Continued

Name	Address	Age	Occupation	Senatorial District	Former Legislative Service
Drake, Richard F.	Muscatine	50	Farmer	38th—Muscatine, Johnson, Louisa, Scott	63, 64, 65, 66, 67 (1st), 67X
*Doderer, Minnette	Iowa City	54	Legislator	37th—Johnson	60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X
Gallagher, James V.	Jesup	44	Telephone Company	16th—Black Hawk, Benton, Buchanan, Linn, Tama	61, 62, 65, 66, 67 (1st), 67X
*Glenn, Gene W.	Ottumwa	49	Lawyer	45th—Wapello, Appanoose, Davis, Mahaska, Monroe	61, 62, 63, 64, 65, 66, 67 (1st), 67X
Hansen, Willard R. (Bill)	Cedar Falls	46	General Insurance, Real Estate	18th—Black Hawk	63, 64, 65, 66, 67 (1st), 67X
*Hill, Eugene M.	Newton	64	Farmer	35th—Jasper, Mahaska, Marion, Polk, Poweshiek, Warren	58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X
*Hill, Philip B.	Des Moines	46	Lawyer	33rd—Polk	64, 65, 66, 67 (1st), 67X
Holden, Edgar H.	Davenport	64	Realtor-Investor	40th—Scott	62, 63, 64, 65
Hulse, Merlin D.	Clarence	54	Farmer	12th—Cedar, Clinton, Jackson, Johnson, Jones, Scott	67 (1st), 67X
*Hultman, Calvin O.	Red Oak	36	Businessman	49th—Montgomery, Fremont, Mills, Page, Pottawattamie	65, 66, 67 (1st), 67X
Hutchins, C. W. (Bill)	Guthrie Center	46	Dry Cleaning and Laundromat Owner	28th—Guthrie, Audubon, Carroll, Cass, Crawford, Greene, Shelby	65, 66, 67 (1st), 67X
*Junkins, Lowell L.	Montrose	33	Ambulance Service Operator	43rd—Lee, Des Moines, Henry	65, 66, 67 (1st), 67X
*Kelly, E. Kevin	Sioux City	34	Attorney	25th—Woodbury, Cherokee, Plymouth	64, 65, 66, 67 (1st), 67X
Kinley, George R.	Des Moines	40	Owner-Driving Range and Golf Sales	34th—Polk, Warren	64, 65, 66, 67 (1st), 67X
*Merritt, Milo	Osage	62	Realtor Associate	7th—Mitchell, Cerro Gordo, Chickasaw, Floyd, Howard	66, 67 (1st), 67X
Miller, Alvin V.	Ventura	56	Businessman, Insurance Agency, Farmer	6th—Cerro Gordo, Worth	65, 66, 67 (1st), 67X

MEMBERS OF THE SENATE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION—Continued

Name	Address	Age	Occupation	Senatorial District	Former Legislative Service
Miller, Charles P.	Burlington	59	Doctor of Chiropractic	42nd—Des Moines, Henry, Louisa	60, 60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X
Miller, Elizabeth R.	Marshalltown	72	Homemaker	20th—Marshall, Grundy, Hardin, Jasper, Story	63, 64, 65, 66, 67 (1st), 67X
*Murray, John S.	Ames	38	Attorney	21st—Story, Boone, Polk	65, 66, 67 (1st), 67X
*Nolting, Fred W.	Waterloo	45	Meat Cutter	17th—Black Hawk	63, 66, 67 (1st), 67X
Nystrom, John N.	Boone	44	President, Automobile Dealership	22nd—Boone, Greene, Hamilton, Story, Webster	64, 65, 66, 67 (1st), 67X
Orr, Joan	Grinnell	54	Legislator	36th—Poweshiek, Benton, Iowa, Johnson, Keokuk, Tama	63 (2nd), 65, 66, 67 (1st), 67X
Palmer, William D.	Des Moines	42	President, Insurance Agency	32nd—Polk	61, 62, 63, 64, 65, 66, 67 (1st), 67X
Priebe, Berl E.	Algona	59	Farmer, Businessman	4th—Kossuth, Emmet, Hancock, Humboldt, Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67 (1st), 67X
*Ramsey, Richard R.	Osceola	37	Attorney	47th—Clarke, Appanoose, Decatur, Lucas, Madison, Monroe, Ringgold, Union, Wayne	65, 66, 67 (1st), 67X
Readerger, David M.	Des Moines	41	Sales	30th—Polk	65, 66, 67 (1st), 67X
*Redmond, James M.	Cedar Rapids	35	Attorney-at-Law	13th—Linn, Johnson	66, 67 (1st), 67X
Robinson, Cloyd	Cedar Rapids	39	Production Line Operator	14th—Linn, Benton	64, 65, 66, 67 (1st), 67X
*Rodgers, Norman G.	Adel	50	Supermarket Owner, Farmer	29th—Dallas, Adair, Clarke, Guthrie, Madison, Warren	63, 64, 65, 66, 67 (1st), 67X
*Rush, Bob	Cedar Rapids	33	Lawyer	15th—Linn	67 (1st), 67X
Schwengels, Forrest V.	Fairfield	62	Real Estate	44th—Jefferson, Henry, Keokuk, Lee, Van Buren, Wapello, Washington	65, 66, 67 (1st), 67X

MEMBERS OF THE SENATE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION—Continued

Name	Address	Age	Occupation	Senatorial District	Former Legislative Service
Scott, John R.	Pocahontas	33	Farmer, Attorney	24th—Pocahontas, Buena Vista, Calhoun, Carroll, Cherokee, Crawford, Greene, Ida, Sac	67 (1st), 67X
*Shaff, Roger J.	Camanche	67	Farmer	39th—Clinton, Scott	62, 63, 64, 65, 66, 67 (1st), 67X
Slater, Tom	Council Bluffs	32	Partner—Advertising, Public Relations, Planning Firm	50th—Pottawattamie	67 (1st), 67X
*Taylor, Ray	Steamboat Rock	54	Farmer	5th—Hardin, Cerro Gordo, Franklin, Hancock, Wright	65, 66, 67 (1st), 67X
*Tieden, Dale L.	Elkader	55	Farmer	9th—Clayton, Allamakee, Delaware, Dubuque, Fayette, Winneshiek	61, 62, 63, 64, 65, 66, 67 (1st), 67X
Van Gilst, Bass	Oskaloosa	66	Farmer	46th—Mahaska, Keokuk, Lucas, Marion, Monroe, Poweshiek, Warren	61, 62, 63, 64, 65, 66, 67 (1st), 67X
*Willits, Earl M.	Des Moines	31	Attorney	31st—Polk	64, 65, 66, 67 (1st), 67X
Kevin P. Light	Secretary				

*Holdovers in 67th GA

MEMBERS OF THE HOUSE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION

Name	Address	Age	Occupation	Representative District	Former Legislative Service
Anderson, Robert T.	Newton	32	Teacher	69th—Jasper, Marion, Polk, Warren	66, 67 (1st), 67X
Arnould, Robert D.	Davenport	24	Student, Legislator	82nd—Scott	None
Avenson, Donald D.	Oelwein	33	Tool & Die Maker	15th—Bremer, Chickasaw, Fayette, Howard, Winneshiek	65, 66, 67 (1st), 67X
Baker, Keith	Linn Grove	48	USAF-Retired, Farmer	6th—Buena Vista, Cherokee, Clay, O'Brien, Palo Alto, Pocahontas	66, 67 (1st), 67X
Bennett, Wayne	Galva	50	Farmer	48th—Buena Vista, Carroll, Cherokee, Crawford, Ida, Sac	65, 66, 67 (1st), 67X
Bina, Robert F.	Davenport	38	Artist	80th—Scott	66, 67 (1st), 67X
Binneboese, Donald H.	Hinton	53	Farmer	49th—Cherokee, Plymouth, Woodbury	66, 67 (1st), 67X
Brandt, Diane	Cedar Falls	39	Legislator	35th—Black Hawk	66, 67 (1st), 67X
Branstad, Terry E.	Lake Mills	31	Lawyer	8th—Emmet, Hancock, Kossuth, Winnebago	65, 66, 67 (1st), 67X
Brockett, Glenn F.	Marshalltown	67	Retired	39th—Marshall	65, 66, 67 (1st), 67X
Brunow, John B.	Centerville	28	Sales Manager	93rd—Appanoose, Clarke, Lucas, Monroe, Wayne	65, 66, 67 (1st), 67X
Byerly, Richard L.	Ankeny	39	College Administrator	61st—Polk	65, 66, 67 (1st), 67X
Chiodo, Ned F.	Des Moines	35	Golf Pro	67th—Polk	67 (1st), 67X
Clark, Betty Jean	Rockwell	57	Representative	11th—Cerro Gordo	67 (1st), 67X
Clark, John H.	Keokuk	31	Farmer	86th—Lee, Henry	64, 65, 66, 67 (1st), 67X
Cochran, Dale M.	Eagle Grove	49	Farmer, Businessman	45th—Humboldt, Webster	61, 62, 63, 64, 65, 66, 67 (1st), 67X
Conlon, Walter	Muscatine	30	Attorney	76th—Muscatine, Scott	67 (1st), 67X
Connors, John H.	Des Moines	55	Fire Depart. Captain Retired	64th—Polk	65, 66, 67 (1st), 67X
Crabb, Frank	Denison	74	Retired Meat Packing Executive	53rd—Crawford, Harrison, Monona	63, 65, 66, 67 (1st), 67X
Crawford, Reid W.	Ames	26	Student	42nd—Boone, Polk, Story	65, 66, 67 (1st), 67X
Cusack, Gregory D.	Davenport	34	Community Organizer	81st—Scott	65, 66, 67 (1st), 67X
Daggett, Horace	Kent	46	Farmer	96th—Adams, Montgomery, Page, Ringgold, Taylor	65, 66, 67 (1st), 67X
Danker, Arlyn E.	Minden	50	Farmer	54th—Harrison, Pottawattamie, Shelby	65, 66, 67 (1st), 67X
Davitt, Philip A.	St. Charles	46	Farmer	58th—Adair, Clarke, Dallas, Madison, Warren	67 (1st), 67X
Den Herder*, Elmer H.	Sioux Center	69	Retired Farmer	1st—Lyon, Sioux	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X

MEMBERS OF THE HOUSE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION—Continued

Name	Address	Age	Occupation	Representative District	Former Legislative Service
Dieleman, Wm. W. (Bill)	Pella	46	Insurance Underwriter	70th—Jasper, Mahaska, Marion, Poweshiek	66, 67 (1st), 67X
Doyle, Donald V.	Sioux City	52	Lawyer	51st—Woodbury	57, 58, 61, 63, 64, 65, 66, 67 (1st), 67X
Dunton, Keith H.	Thornburg	62	Businessman, Farm Operator-owner	38th—Keokuk, Washington	58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X
Dyrland, Terry	Elkader	34	Theatrical Director	18th—Clayton, Delaware, Dubuque, Fayette	66, 67 (1st), 67X
Egenes, Sonja	Story City	47	Legislator, Housewife	43rd—Boone, Hamilton, Story, Webster	64, 65, 66, 67 (1st), 67X
Evans, Cooper	Grundy Center	53	Farm Manager	38th—Black Hawk, Butler, Franklin, Grundy, Marshall, Tama	66, 67 (1st), 67X
Fitzgerald, Jerome	Fort Dodge	36	Small Businessman	46th—Webster	65, 66, 67 (1st), 67X
Garrison, Albert L.	Waterloo	50	Business & Engineering Consultant	34th—Black Hawk	67 (1st), 67X
Gentleman, Julia B.	Des Moines	46	Housewife	65th—Polk	66, 67 (1st), 67X
Gettings, Don	Ottumwa	55	Machine Repairman	90th—Appanoose, Davis, Wapello	67 (1st), 67X
Gilloon, Thomas J.	Epworth	28	Self-employed	21st—Dubuque, Jackson	66, 67 (1st), 67X
Gilson, Ernest W.	Bayard	47	Teacher-Coach	56th—Audubon, Carroll, Cass, Crawford, Greene, Guthrie, Shelby	67 (1st), 67X
Griffee, Willam B.	Nashua	41	Consulting Service	14th—Chickasaw, Floyd, Howard, Mitchell	65, 66, 67 (1st), 67X
Halvorson, Roger A.	Monona	43	Insurance, Realtor	17th—Allamakee, Clayton, Winneshiek	66, 67 (1st), 67X
Hansen, Ingwer L.	Hartley	65	Retired	3rd—Clay, Dickinson, Lyon, O'Brien, Osceola, Sioux	65, 66, 67 (1st), 67X
Harbor, William H.	Henderson	57	Grain Elevator Owner-Operator	97th—Fremont, Mills, Montgomery, Page	56, 57, 58, 62, 63, 64, 67 (1st), 67X
Hargrave, Wm. J., Jr.	Iowa City	47	Self-Employed	74th—Johnson	65, 66, 67 (1st), 67X
Harvey, Lavern R.	Bettendorf	33	Contractor	79th—Scott	65, 66, 67 (1st), 67X
Hines, Neal	Nevada	27	Small Businessman	41st—Story	66, 67 (1st), 67X
Hinkhouse, Herbert C.	West Branch	60	Farmer	24th—Cedar, Clinton, Johnson, Scott	66, 67 (1st), 67X

MEMBERS OF THE HOUSE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION—Continued

Name	Address	Age	Occupation	Representative District	Former Legislative Service
Hoffmann, Betty A.	Muscatine	56	Legislator	75th—Johnson, Louisa, Muscatine	67 (1st), 67X
Horn, Wally E.	Cedar Rapids	44	Teacher	28th—Linn	65, 66, 67 (1st), 67X
Howell, Rollin K.	Rockford	48	Farmer	13th—Cerro Gordo, Floyd, Mitchell	65, 66, 67 (1st), 67X
Hullinger, Arlo	Leon	56	Farmer	94th—Clarke, Decatur, Madison, Ringgold, Union, Wayne	61, 62, 66, 67 (1st), 67X
Husak, Emil J.	Toledo	47	Farmer	71st—Benton, Iowa, Poweshiek, Tama	64, 65, 66, 67 (1st), 67X
Jesse, Norman G.	Des Moines	40	Attorney	62nd—Polk	63, 64, 65, 66, 67 (1st), 67X
Jochum, Thomas J.	Dubuque	26	Plant Worker	19th—Dubuque	66, 67 (1st), 67X
Junker, Willis E.	Sioux City	52	Investor	50th—Woodbury	65, 66, 67 (1st), 67X
Koogler, Fred	Oskaloosa	52	Legislator	91st—Keokuk, Lucas, Mahaska, Marion, Monroe, Poweshiek	66, 67 (1st), 67X
Krause, Robert A.	Whittemore	27	Agri-politician	7th—Hancock, Humboldt, Kossuth, Palo Alto, Pocahontas	65, 66, 67 (1st), 67X
Krewson, Lyle R.	Urbandale	34	Legislator	59th—Polk	67 (1st), 67X
Lageschulte, Ray	Waverly	55	Farmer, Hail Adjuster	37th—Black Hawk, Bremer, Butler, Floyd	66, 67 (1st), 67X
Lind, Thomas A.	Waterloo	59	Teacher	33rd—Black Hawk	None
Lindeen, Arnold R.	Swedesburg	67	Retired Farmer, Businessman	83rd—Des Moines, Henry, Louisa	66, 67 (1st), 67X
Lipsky, Joan	Cedar Rapids	58	Legislator	26th—Linn	62, 63, 64, 65, 66, 67 (1st), 67X
Lonergan, Joyce	Boone	43	Housewife	44th—Boone, Greene	66, 67 (1st), 67X
Menke, Lester D.	Calumet	59	Farmer, Insurance	5th—Buena Vista, Cherokee, Clay, O'Brien, Plymouth	65, 66, 67 (1st), 67X
Middleswart, James I.	Indianola	65	Food Producer	92nd—Lucas, Marion, Warren	62, 63, 64, 65, 66, 67 (1st), 67X
Millen, Floyd H.	Farmington	58	Retired Businessman	87th—Henry, Jefferson, Keokuk, Lee, Van Buren, Wapello, Washington	60, 60X, 61, 62, 63, 64, 65, 66, 67 (1st), 67X
Miller, Kenneth D.	Independence	52	Owner-Mobile Home Court	32nd—Black Hawk, Buchanan	65, 66, 67 (1st), 67X
Miller (Sergeant), Opal	Rockwell City	62	Farm Owner, Legislator	47th—Calhoun, Carroll, Greene, Pocahontas, Sac	66, 67 (1st), 67X

MEMBERS OF THE HOUSE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION—Continued

Name	Address	Age	Occupation	Representative District	Former Legislative Service
Monroe, W. R. (Bill), Jr.	Burlington	39	Legislator, Pharmacist	84th—Des Moines	64, 65, 66, 67 (1st), 67X
Newhard, Scott D.	Anamosa	26	Private Investigator	23rd—Cedar, Clinton, Jackson, Jones	65, 66, 67 (1st), 67X
Nielsen, Carl V.	Altoona	45	Lawyer	63rd—Polk	65, 66, 67 (1st), 67X
Norland, Lowell E.	Kensett	46	Farmer	12th—Cerro Gordo, Worth	65, 66, 67 (1st), 67X
O'Halloran, Mary	Cedar Falls	34	Educator	36th—Black Hawk	65, 66, 67 (1st), 67X
Oxley, M. B. (Mike)	Marion	55	Farmer	30th—Linn	61, 67 (1st), 67X
Patchett, John E.	North Liberty	28	Legislator, Law Student	25th—Johnson, Linn	65, 66, 67 (1st), 67X
Pavich, Emil S.	Council Bluffs	46	Cereal Company Employee	99th—Pottawattamie	66, 67 (1st), 67X
Pellett, Wendell C.	Atlantic	60	Farmer	95th—Adair, Adams, Cass, Guthrie, Union	64, 65, 66, 67 (1st), 67X
Pelton, John	Clinton	31	Attorney	77th—Clinton	67 (1st), 67X
Perkins, Carroll T.	Jefferson	51	Agriculture	55th—Audubon, Carroll, Crawford, Greene, Guthrie	66, 67 (1st), 67X
Poncy, Charles N.	Ottumwa	55	Maintenance Engineer	89th—Mahaska, Monroe, Wapello	62, 63, 65, 66, 67 (1st), 67X
Rinas, B. Joseph	Marion	30	Machinist	29th—Linn	65, 66, 67 (1st), 67X
Scheelhaase, Lyle	Moville	46	Farmer	52nd—Monona, Woodbury	66, 67 (1st), 67X
Schneklath, Hugo	Eldridge	54	Farmer	78th—Clinton, Scott	67 (1st), 67X
Schroeder, Laverne W.	McClelland	44	Farmer	98th—Mills, Pottawattamie	62, 63, 64, 65, 66, 67 (1st), 67X
Shimanek, Nancy J.	Monticello	30	Lawyer	22nd—Delaware, Dubuque, Jackson, Jones	67 (1st), 67X
Small, Jr., Arthur A.	Iowa City	44	Businessman	73rd—Johnson	64, 65, 66, 67 (1st), 67X
Smalley, Douglas R.	Des Moines	31	Attorney	60th—Polk	67 (1st), 67X
Spear, Clay	Burlington	61	Retired-Postal Service	85th—Des Moines, Lee	66, 67 (1st), 67X
Spencer, Don W.	Ruthven	55	Farmer	4th—Clay, Dickinson, Emmet, Palo Alto	66, 67 (1st), 67X
Stephens, Lyle R.	Le Mars	66	Retired Farmer	2nd—Plymouth, Sioux	65, 66, 67 (1st), 67X
Stromer, Delwyn	Garner	47	Farmer, Legislator	9th—Cerro Gordo, Franklin, Hancock, Wright	62, 63, 64, 65, 66, 67 (1st), 67X
Svoboda, Linda A.	Amana	34	Journalist	72nd—Benton, Iowa, Johnson, Keokuk, Poweshiek	66, 67 (1st), 67X
Tauke, Thomas J.	Dubuque	27	Attorney	20th—Dubuque	66, 67 (1st), 67X
Thompson, Patricia L.	West Des Moines	50	Bank (Part-time)	66th—Polk	67 (1st), 67X

MEMBERS OF THE HOUSE—SIXTY-SEVENTH GENERAL ASSEMBLY—1978 REGULAR SESSION—Continued

Name	Address	Age	Occupation	Representative District	Former Legislative Service
Tofte, Semor C.	Decorah	66	Legislator	16th—Fayette, Howard, Winneshiek	65, 66, 67 (1st), 67X
Varley, Andrew	Stuart	43	Farmer	57th—Adair, Dallas, Guthrie	62, 63, 64, 65, 66, 67 (1st), 67X
Walter, Craig D.	Council Bluffs	28	Self-Employed	100th—Pottawattamie	66, 67 (1st), 67X
Welden, Richard W.	Iowa Falls	69	Retired	10th—Franklin, Hardin, Wright	62, 63, 64, 65, 66, 67 (1st), 67X
Wells, James D.	Cedar Rapids	49	Shift Leader	27th—Benton, Linn	63, 64, 65, 66, 67 (1st), 67X
West, James C.	State Center	45	Retailer (Furniture)	40th—Grundy, Hardin, Jasper, Marshall, Story	65, 66, 67 (1st), 67X
Woods, Jack E.	Des Moines	41	Self-Employed	68th—Polk, Warren	65, 66, 67 (1st), 67X
Wyckoff, Russell L.	Vinton	52	Farmer	31st—Benton, Black Hawk, Buchanan, Linn, Tama	64, 65, 66, 67 (1st), 67X
Wray, David L.	Chief Clerk				

*Deceased June 2, 1978

CONGRESSIONAL DIRECTORY UNITED STATES SENATORS

Dick Clark, Marion _____ Dec. 31, 1978
John Culver, Cedar Rapids _____ Dec. 31, 1980

UNITED STATES REPRESENTATIVES

District

1 Jim Leach, Davenport _____ Dec. 31, 1978
2 Michael Blouin, Dubuque _____ Dec. 31, 1978
3 Charles Grassley, New Hartford _____ Dec. 31, 1978
4 Neal Smith, Altoona _____ Dec. 31, 1978
5 Tom Harkin, Ames _____ Dec. 31, 1978
6 Berkley Bedell, Spirit Lake _____ Dec. 31, 1978

CONDITION OF STATE TREASURY

Receipts, Disbursements and Balances in the Several Funds
For the Fiscal Period Ending June 30, 1977

Fiscal Year Ending June 30, 1977

	Balance July 1, 1976	Total Receipts and Transfers	Total Available	Total Warrants Redeemed Treasurer's Checks Issued and Transfers	Balance June 30, 1977
General Revenue _____	\$289,648,792	\$1,148,461,716	\$1,438,110,508	\$1,139,930,388	\$206,431,628
Transfers _____				91,748,492	
Trust Funds _____	41,830,903	337,220,020	379,050,923	247,281,996	44,663,499
Transfers _____				87,105,428	
Special Funds _____					
(Comptroller's _____					
Warrants) _____	921,124,502	1,297,640,254	2,397,618,676	1,316,000,324	1,081,618,352
Transfers _____		178,853,920			
Special Funds _____					
(Treasurer's Checks) _____	1,703,500	112,344	1,815,844	1,518,500	297,344
TOTALS _____	\$1,254,307,697	\$2,962,288,254	\$4,216,595,951	\$2,883,585,128	\$1,333,010,823
Balance July 1, 1976 _____	\$1,254,307,697				
Receipts and Transfers _____	2,962,288,254				
Total _____	\$4,216,595,951				
Disbursements and Transfers _____	\$2,883,585,128				
Balance June 30, 1977 _____	\$1,333,010,823				

**APPROPRIATIONS
AND
GENERAL LAWS**

LAWS
OF THE
1978 Regular Session
OF THE
Sixty-seventh General Assembly
OF THE
STATE OF IOWA

PASSED AT DES MOINES, THE CAPITAL OF THE STATE, BEGUN ON THE
NINTH DAY OF JANUARY, AND ENDED ON THE SIXTEENTH
DAY OF JULY, A. D. 1978, IN THE ONE HUNDRED THIRTY-
SECOND YEAR OF THE STATE.

APPROPRIATIONS
AND
GENERAL LAWS

CHAPTER 1001
BLIND COMMISSION, HIGHER EDUCATION, REGENTS,
EDUCATIONAL TELEVISION AND PUBLIC INSTRUCTION
APPROPRIATIONS

S. F. 2125

An Act relating to and making appropriations to agencies, institutions, commissions, departments, and boards responsible for education programs of this state.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following sums, or so much thereof as may be necessary, to be used by the following agencies for the purposes designated:

1978-1979
Fiscal Year

1. IOWA COMMISSION FOR THE
BLIND

For salaries, support, maintenance and miscellaneous purposes..... \$ 742,300

2. BONUS BOARD

a. For the war orphans educational aid fund created by section thirty-five point eight (35.8) of the Code..... \$ 40,000

b. For salaries, support, maintenance and miscellaneous purposes of the bonus board..... \$ 60,400

Sec. 2. There is appropriated from the general fund of the state to the higher education facilities commission for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following sums or so much thereof as may be necessary, to be used for the funding of the following programs for the purposes designated:

1978-1979
Fiscal Year

1. HIGHER EDUCATION FACILITIES
COMMISSION

For salaries, support, maintenance and miscellaneous purposes..... \$ 220,000

2. TUITION GRANT PROGRAM

To supplement the appropriation provided in subsection one (1) of section two hundred sixty-one point twenty-five (261.25) of the Code for tuition grants to full-time resident students attending accredited private institutions of higher education in Iowa under sections two hundred sixty-one point nine (261.9) to two hundred sixty-one point sixteen (261.16) of the Code..... \$ 2,180,000

3. VOCATIONAL TECHNICAL TUITION GRANT PROGRAM

To supplement the appropriation provided in subsection three (3) of section two hundred sixty-

one point twenty-five (261.25)
of the Code for tuition grants
to full-time resident students
in a vocational-technical pro-
gram in Iowa as provided in sec-
tion two hundred sixty-one point
seventeen (261.17) of the Code..... \$ 200,000

Sec. 3.

1. There is appropriated from the general fund of the state for the fiscal year commencing July 1, 1978 and ending June 30, 1979 to the higher education facilities commission the sum of ninety thousand (90,000) dollars, or so much thereof as may be necessary, to be used for the purposes provided in sections two hundred sixty-one point twenty-six (261.26) and two hundred sixty-one point twenty-seven (261.27) of the Code. From the funds appropriated by this section thirty thousand (30,000) dollars shall be allocated to the class which commenced its first academic year in 1976, thirty thousand (30,000) dollars shall be allocated for the class which commenced its academic year in 1977, and thirty thousand (30,000) dollars shall be allocated for the class which commenced its academic year in 1978.

2. In addition to the requirements of sections two hundred sixty-one point twenty-six (261.26) and two hundred sixty-one point twenty-seven (261.27) of the Code, the availability of funds appropriated by this section shall be subject to the following conditions:

a. One-half of the funds shall not be released until delivery of the June 30, 1977 financial audits conducted by an independent third party of the participating colleges of optometry to the legislative fiscal bureau.

b. The remaining one-half of the funds appropriated by subsection one (1) of this section shall not be released until the delivery of the June 30, 1978 financial audits conducted by an independent third party of the participating colleges of optometry to the legislative fiscal bureau.

Sec. 4.

1. There is appropriated from the general fund of the state to the higher education facilities commission for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of one million two hundred thousand (1,200,000) dollars, or so much thereof as may be necessary, to be paid to the college of osteopathic medicine and surgery for the

subvention program created pursuant to sections two hundred sixty-one point eighteen (261.18) and two hundred sixty-one point nineteen (261.19) of the Code. The subvention shall be used for the admission and education of not more than thirty percent of each of the three classes of students in the college of osteopathic medicine and surgery for the fiscal year beginning July 1, 1978 and ending June 30, 1979. Funds shall only be expended for resident students and funds expended on behalf of each class shall not exceed four hundred thousand (400,000) dollars.

2. In addition to the requirements of sections two hundred sixty-one point eighteen (261.18) and two hundred sixty-one point nineteen (261.19) of the Code, the availability of funds appropriated by this section shall be subject to the following conditions:

a. One-half of the funds shall not be released until delivery of the June 30, 1977 financial audit conducted by an independent third party of the college of osteopathic medicine and surgery to the legislative fiscal bureau.

b. The remaining one-half of the funds appropriated by subsection one (1) of this section shall not be released until the delivery of the June 30, 1978 financial audit conducted by an independent third party of the college of osteopathic medicine and surgery to the legislative fiscal bureau.

Sec. 5. There is appropriated from the general fund of the state to the higher education facilities commission for the fiscal year beginning July 1, 1978, and ending June 30, 1979, the sum of fifty thousand (50,000) dollars, or so much thereof as may be necessary, to provide for a national guard enlistment program. Funds shall only be expended for Iowa residents enlisting in the Iowa national guard between July 1, 1978, and February 1, 1979, who enroll as an undergraduate in an Iowa post secondary educational institution and funds expended on behalf of each qualified enlistee shall not exceed two hundred fifty (250) dollars per year.

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of public instruction the following amounts, or so much thereof as may be necessary, to be used in the manner designated:

1978-1979

Fiscal Year

1. GENERAL OFFICE ADMINISTRATION

a. For salaries, support, maintenance and miscellaneous purposes..... \$ 2,550,000

b. For fire service education..... \$ 200,000

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance and miscellaneous purposes..... \$ 585,500

3. VOCATIONAL EDUCATION

a. For vocational education aid to secondary schools..... \$ 3,000,000

Funds appropriated by this paragraph are to be used for aid to school districts for development and the conduct of both continuing and new vocational programs, services and activities of vocational education through secondary schools in accordance with the provisions of chapter two hundred fifty-eight (258) and chapter two hundred eighty A (280A) of the Code, to purchase instructional equipment for vocational and technical courses of instruction in such schools, and to match federal reimbursement for continuing and new secondary vocational programs.

b. For existing jointly administered secondary vocational education programs..... \$ 150,000

Funds appropriated by this paragraph are to be used to support existing jointly administered secondary vocational programs in accordance with provisions of chapter two hundred fifty-eight (258) and chapter two hundred eighty A (280A) of the Code.

4. VOCATIONAL REHABILITATION

For salaries, support, maintenance and miscellaneous purposes..... \$ 2,340,000

5. MIGRANT EDUCATION

For reimbursement to school districts and merged area schools operating education programs for migratory workers and children of migratory workers..... \$ 50,000

6. PROFESSIONAL TEACHING PRACTICES COMMISSION

For the use of the professional teaching practices commission to carry out the provisions of chapter two hundred seventy-two

A (272A) of the Code..... \$ 37,300

7. VOCATIONAL YOUTH ORGANIZATION FUND

To carry out the provisions of section two hundred fifty-eight point fourteen (258.14) of the Code..... \$ 10,000

8. SCHOOL FOOD SERVICE

For the purpose of providing assistance to students enrolled in public school districts and nonpublic schools of the state for breakfasts, lunches and minimal equipment programs with the funds being used as state matching funds for federal programs and which shall be disbursed according to federal regulations..... \$ 3,322,000

9. TRANSPORTATION OF NON-PUBLIC SCHOOL PUPILS

For costs of providing transportation to each resident pupil of a public school district who attends a nonpublic school and who is entitled to transportation under chapter two hundred eighty-five (285) of the Code..... \$ 4,041,000

10. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic school district or authorized by section three hundred one point one (301.1) of the Code. Such funding shall be limited to seven dollars and fifty cents per pupil and shall not exceed the comparable services offered to resident public school pupils..... \$ 400,000

11. COMPACT FOR EDUCATION

For membership fees for Iowa as a member of the education commission of the states as provided in chapter two hundred seventy-two B (272B) of the Code.....\$ 15,750

12. MERGED AREA SCHOOLS

a. For general state financial aid to merged areas as defined in section two hundred eighty A point two (280A.2) of the Code the amount of thirty-seven million fifty thousand (37,050,000) dollars to be allocated as follows:

- (1) Merged Area I..... \$ 1,732,626
- (2) Merged Area II..... \$ 2,476,198
- (3) Merged Area III..... \$ 2,248,231
- (4) Merged Area IV..... \$ 755,039
- (5) Merged Area V..... \$ 2,784,581
- (6) Merged Area VI..... \$ 2,426,053
- (7) Merged Area VII..... \$ 2,657,243
- (8) Merged Area IX..... \$ 2,810,818
- (9) Merged Area X..... \$ 4,403,929
- (10) Merged Area XI..... \$ 5,593,837
- (11) Merged Area XII..... \$ 1,720,141
- (12) Merged Area XIII..... \$ 2,637,192
- (13) Merged Area XIV..... \$ 956,902
- (14) Merged Area XV..... \$ 2,034,507
- (15) Merged Area XVI..... \$ 1,812,703

b. To provide for equipment replacement and upgrading in all merged area schools on a pro-rated basis consistent with past allocations made from equipment inventory listings..... \$ 1,350,000

c. To provide funds for matching federal reimbursement for continuing and new vocational education programs in merged area schools in accordance with

the provisions of chapter two hundred fifty-eight (258) and chapter two hundred eighty A (280A) of the Code, and to purchase instructional equipment for vocational and technical courses of instruction in such schools..... \$ 8,700,000

d. FOR MERGED AREA XII

For operation of the radio station..... \$ 120,000

e. For added enrollment in merged area schools to be allocated on the basis of the following priorities:

(1) To add additional sections of preparatory vocational programs in merged area schools where the number of students seeking enrollment exceed the number of spaces available;

(2) To add new sections of preparatory vocational programs in merged area schools to accommodate students seeking enrollment that could not be accommodated in similar programs in other merged area schools;

(3) To add sections of preparatory career programs in merged area schools that are not currently available in the state if student interest and a survey of employers indicate a definite need for such new programs..... \$ 250,000

Sec. 7. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the following amounts, or so much thereof as may be necessary to be used for the following purposes, however, as a condition for the appropriation of these funds, the state board of regents, for purposes of implementing collective bargaining pursuant to chapter twenty (20) of the Code, shall act as the exclusive

"public employer" for its academic, professional and scientific employees.

1978-1979
Fiscal Year

1. OFFICE OF STATE BOARD OF REGENTS

- a. For salaries, support, maintenance, equipment, and miscellaneous purposes, including state board of regents members receiving a per diem not to exceed forty dollars per day..... \$ 275,000
- b. For continuing education..... \$ 100,000
- c. For enrollment increase costs..... \$ 1,500,000
- d. For merit salary annualization..... \$ 1,500,000

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory.

For salaries, support, maintenance, equipment, and miscellaneous purposes and for the pediatric department of the college of medicine to continue to fund the program of research at the current level in the cause, course, treatment, cure, and management of diabetes mellitus..... \$65,476,000

b. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes; for medical and surgical treatment of indigent patients as provided in chapter two hundred fifty-five (255) of the Code..... \$16,320,000

c. Psychiatric hospital

(1) For salaries, support, maintenance, equipment, and miscellaneous purposes and for the care, treatment and maintenance of committed and voluntary

public patients.....	\$ 3,349,000
(2) For mental health re- search.....	\$ 75,000
d. State hygienic laboratory For salaries, support, mainte- nance, equipment, and miscella- neous purposes.....	\$ 1,186,723
e. Hospital school For salaries, support, mainte- nance, equipment, and miscella- neous purposes.....	\$ 2,368,000
f. Oakdale campus For salaries, support, mainte- nance, equipment, and miscella- neous purposes beyond that amount underwritten from charges to coun- ties, agencies, and individual patients at no less than twenty- five percent of per diem cost.....	\$ 1,356,900
3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY	
a. General university For salaries, support, mainte- nance, equipment, and miscella- neous purposes.....	\$53,092,000
b. Agricultural experiment station For salaries, support, mainte- nance, equipment, and miscella- neous purposes.....	\$ 6,101,000
c. Cooperative extension ser- vice in agriculture and home economics For salaries, support, mainte- nance, and miscellaneous purposes.....	\$ 5,369,000
4. UNIVERSITY OF NORTHERN IOWA	
a. For salaries, support, main- tenance, equipment, and miscella- neous purposes.....	\$21,797,000
b. For doctoral program.....	\$ 75,000
5. STATE SCHOOL FOR THE DEAF For salaries, support, mainte- nance, and miscellaneous purposes.....	\$ 2,842,000

6. IOWA BRAILLE AND SIGHT-SAVING SCHOOL

For salaries, support, maintenance, and miscellaneous purposes..... \$ 1,529,000

7. FAMILY PRACTICE PROGRAM

For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out the provisions of chapter one hundred forty-eight C

(148C) of the Code..... \$ 985,000

Sec. 8. There is appropriated to the state board of regents for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of one million three hundred thousand (1,300,000) dollars, or so much thereof as is necessary, to replace losses of federal funds by the colleges of dentistry, medicine, veterinary medicine, pharmacy, and nursing. The state board of regents shall allocate necessary funds appropriated by this section to the appropriate institution in order to supplement existing appropriations for the loss of federal funds. It is intended that the appropriation made by this section is to supplement existing funds appropriated which are related to educational and capitation grants and such funds are not to be used for solely sponsored research grants to the institutions.

Sec. 9. Section two hundred fifty-seven point twenty-five (257.25), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-three (93), section one (1), is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding the foregoing provisions of this section and as an exception to their requirements, a nonpublic grade school which is reopening shall be approved even if it does not have a complete grade one through grade six program, provided that the nonpublic grade school complies with all other minimum standards established by law and administrative rules adopted pursuant to the law and that the nonpublic grade school shows progress toward reaching a grade one through grade six program.

Sec. 10. Section two hundred sixty-one point twelve (261.12), subsection one (1), paragraph b, Code 1977, is amended to read as follows:

b. One thousand ~~three~~ five hundred dollars.

Sec. 11. Section two hundred sixty-one point nineteen (261.19), Code 1977, is amended to read as follows:

261.19 PAYMENT OF SUBVENTION. The registrar of the college of osteopathic medicine and surgery shall file, not later than August 4 first of each year, a certificate of enrollment which shall include the number, names and addresses of all students enrolled, by class, and shall indicate which students are resident students. If the number of resident students does not equal thirty percent of the total enrollment of a class, the higher education facilities commission shall deduct ~~the sum of twenty thousand dollars~~ an amount which equals the actual state contribution per student for each class member under the required percentage. The higher education facilities commission shall compute the amount of the subvention and shall transmit the funds to the college of osteopathic medicine and surgery by August 45 fifteenth of each year for which funds are appropriated by the general assembly.

Sec. 12. Chapter two hundred eighty-five (285), Code 1977, is amended by adding the following new section:

NEW SECTION. As used in this chapter, the term "nonpublic school" means those nonpublic schools approved by the department of public instruction as provided in section two hundred fifty-seven point twenty-five (257.25) of the Code.

Sec. 13. Chapter three hundred one (301), Code 1977, is amended by adding the following new section:

NEW SECTION. As used in this chapter, the term "nonpublic school" means those nonpublic schools approved by the department of public instruction as provided in section two hundred fifty-seven point twenty-five (257.25) of the Code.

Sec. 14. Section three hundred one point one (301.1), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Textbooks adopted and purchased by a school district may, and shall to the extent funds are appropriated by the general assembly, be made available to pupils attending nonpublic schools upon request of the pupil or the pupil's parent under the same comparable terms as made available to pupils attending public schools.

Sec. 15. Chapter three hundred one (301), Code 1977, is amended by adding the following new section:

NEW SECTION. PAYMENT OF CLAIMS FOR NONPUBLIC SCHOOL PUPIL TEXTBOOK SERVICES. Boards of directors of school districts

shall be required to provide textbook services to nonpublic school pupils as provided in section three hundred one point one (301.1) of the Code only during school years when the general assembly has appropriated funds to the department of public instruction for the payment of claims for textbook costs submitted by the school district.

If the funds appropriated by the general assembly are not sufficient to pay claims submitted by the school districts, the amount paid to each school district by the department shall be prorated on the basis of funds so appropriated. The difference between the amount of the claim of a school district and the amount of payment received from the department of public instruction shall be paid by the parent or guardian of the nonpublic school pupil served.

The costs of providing textbook services to nonpublic school pupils as provided in section three hundred one point one (301.1) of the Code shall not be included in the computation of district cost under chapter four hundred forty-two (442) of the Code, but shall be shown in the budget as an expense from miscellaneous income. Any textbook reimbursements received by a local school district for serving nonpublic school pupils shall not affect district cost limitations of chapter four hundred forty-two (442) of the Code. The reimbursements provided in this section are miscellaneous income as defined in section four hundred forty-two point five (442.5) of the Code.

Claims for reimbursement shall be made to the department of public instruction by the public school district providing textbook services during a school year on a form prescribed by the department, and the claim shall state the services provided and the actual costs incurred. Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim. By February first and by July fifteenth of each year the department shall certify to the state comptroller the amounts of approved claims to be paid, and the state comptroller shall draw warrants payable to school districts which have established claims. The public school district in which the pupil resides may contract with the public school district of attendance to have the latter school furnish the services and shall receive reimbursement for the payment of said contract; however, said services must be comparable to the services of the district of residence and cannot exceed the per pupil cost of the program of the district of residence.

Sec. 16. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter two (2), section two (2), subsections thirteen (13), thirty-four (34) and thirty-seven (37), are amended to read as follows:

13. EDUCATIONAL RADIO AND TELEVISION FACILITY BOARD.

Salary of the director ~~\$20,000~~ 26,000 to ~~\$29,000~~ 36,000

34. DEPARTMENT OF PUBLIC INSTRUCTION.

Salary of the superintendent of public instruction ~~\$20,000~~ 35,000 to ~~\$35,200~~ 44,000

37. BOARD OF REGENTS.

Salary of executive secretary ~~\$23,400~~ 31,000 to ~~\$33,600~~ 39,000

Sec. 17. The intent of the general assembly in appropriating funds pursuant to section seven (7) of this Act is to provide additional funds, if needed, during the 1979 Session of the general assembly for the purchase of fuel and electricity if the costs for fuel and electricity will exceed fourteen million two hundred eighty-two thousand (14,282,000) dollars for 1978-79. Any funds remaining which are in excess of such estimated fuel and electricity costs during 1978-79 may be used for other purposes such as maintenance, equipment, and miscellaneous purposes.

Sec. 18. All federal grants to and the federal receipts of agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

Sec. 19. Moneys appropriated by this Act shall not be used for capital improvements.

Sec. 20. When any laws of this state are in conflict with this Act, the provisions of this Act shall govern for the fiscal year 1978-1979.

Approved March 31, 1978

CHAPTER 1002
PUBLIC INSTRUCTION

S. F. 2268

AN ACT appropriating funds to the department of public instruction for salary adjustments and fringe benefits for radio station employees of merged Area XII.

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

Section 1. There is appropriated to the department of public instruction the sum of ten thousand five hundred (10,500) dollars, or so much thereof as is necessary, for the fiscal year beginning July 1, 1978 and ending June 30, 1979 such sum to be used for salary adjustments and fringe benefits of radio station employees of merged area XII. Funds appropriated by this section are in addition to funds otherwise appropriated by the general assembly.

Approved June 12, 1978

CHAPTER 1003
CERTAIN LEGAL FEES

S. F. 2239

AN ACT appropriating funds for certain legal fees.

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

Section 1. There is appropriated to the state comptroller from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of eight thousand five hundred seventy-one dollars and seventy-five cents (\$8,571.75), or so much thereof as may be necessary, to be used to pay legal expenses of the respondent in state of Iowa ex rel. Richard Turner v. John Scott, respondent. The attorney of record shall submit to the state comptroller in the manner required by the state comptroller the claim for such legal expenses. The state comptroller shall pay to the attorney of record the amount claimed upon receipt of such claim.

Sec. 2. The acceptance of funds appropriated by this Act by the attorney of record shall be in full settlement of all claims against the state because of the above described claim.

Approved June 20, 1978

CHAPTER 1004

AGRICULTURE, ECONOMIC DEVELOPMENT, ENERGY AND COAL RESEARCH AND
NATURAL RESOURCES

H. F. 2098

AN ACT relating to and appropriating from the general fund of the state and various trust funds for various operations and grants and aids to departments and agencies of the state whose responsibilities relate to agricultural affairs, economic development, energy research, coal research, and natural resources management and research.

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

Section 1. There is appropriated from the general fund of the state and the trust funds indicated to the department of agriculture for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1978-1979 <u>Fiscal Year</u>
1. GENERAL ADMINISTRATION	
a. From the general fund for salaries, support, maintenance, and miscellaneous purposes.....	\$ 890,502
b. From the fertilizer fund to be transferred to the administration division.....	\$ 25,000
c. From the dairy trade practice fund to be transferred to the administration division.....	\$ 49,067
d. From the commercial feed fund to be transferred to the administration division.....	\$ 25,000
2. REGULATORY DIVISION	
a. From the general fund for salaries, support, maintenance, and miscellaneous purposes.....	\$ 2,049,797
b. From the hotel and restaurant fund to be transferred to the regulatory division.....	\$ 265,471
3. LABORATORY DIVISION	
a. From the general fund for salaries, support, mainte-	

nance, and miscellaneous purposes..... \$ 377,399

b. From the general fund for salaries, support, and miscellaneous purposes for the processing of aujeszky's disease tests required by the department of agriculture's aujeszky's disease control program..... \$ 100,000

The department shall charge a fee for each aujeszky's disease test. The fees shall cover the costs of the program but shall not exceed one dollar for each aujeszky's disease test and all moneys obtained by collection of such fees shall be deposited in the state general fund.

4. From the commercial feed fund to be transferred to the laboratory division..... \$ 505,971

5. From the pesticide fund to be transferred to the laboratory division..... \$ 273,152

6. From the fertilizer fund to be transferred to the laboratory division..... \$ 500,939

7. a. If there is an unencumbered balance of funds in the commercial feed fund on June thirtieth of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection one (1) of section one hundred ninety-eight point nine (198.9) of the Code for the next fiscal year in such amount as will result in an ending estimated balance for June thirtieth of the next fiscal year of three hundred fifty thousand dollars.

b. If there is an unencumbered balance of funds in the fertilizer fund on June thirtieth of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection one (1) of section two hundred point eight (200.8) of the Code for the next fiscal year in such amount as will result in an ending estimated balance for the June thirtieth of the next fiscal year of three hundred fifty thousand dollars.

8. There is appropriated to the regulatory division of

the department of agriculture for the purposes of converting or purchasing scale trucks in accordance with plans submitted to the budget subcommittee on natural resources, the amount of one hundred ten thousand (110,000) dollars, or so much thereof as is necessary, from federal indirect cost reimbursements received by the department of agriculture for expenses incurred during the prior fiscal years in the meat and poultry inspection program.

9. Funds appropriated by this section to the department of agriculture shall be used to pay salaries and support for not more than three hundred twenty-two permanent full-time positions.

10. Funds appropriated for the general administration of the department under subsection one (1) of this section shall be used by the department for the salary and support of a livestock reporter who shall provide daily livestock quotations at least twice weekly from the central livestock commission company in Webster City, Iowa, provided that livestock quotations reporting services at other livestock markets shall not be reduced to provide the services required under this section.

11. If Senate File three hundred sixty-five (365) is approved by the Sixty-seventh General Assembly, 1978 Session, and becomes law, the funds appropriated under section one (1) of this Act shall be adjusted as follows:

a. The amount of funds appropriated pursuant to section one (1), subsection one (1), paragraph a, of this Act shall be increased to eight hundred ninety-seven thousand eight hundred two (897,802) dollars.

b. The amount of funds appropriated pursuant to section one (1), subsection two (2), paragraph a, of this Act shall be increased to two million three hundred thirty-seven thousand five hundred seventy-three (2,337,573) dollars.

c. The amount of funds appropriated pursuant to section one (1), subsection two (2), paragraph b, of this Act shall be reduced to one hundred thirty-two thousand seven hundred thirty-five (132,735) dollars.

d. The number of permanent full-time positions shall be increased under section one (1), subsection nine (9), of this Act to three hundred thirty-five permanent full-time positions.

e. That funds appropriated to the regulatory division from the hotel and restaurant fund shall be available for expenditure for the period beginning July 1, 1978 and ending

December 31, 1978 and all unencumbered funds remaining in the hotel and restaurant fund on January 1, 1979 shall be transferred to the general fund of the state.

Sec. 2. There is appropriated from the general fund of the state to the department of agriculture for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of twenty-five thousand (25,000) dollars, or so much thereof as may be necessary, to make grants to counties to pay the indemnity and the expenses of the inspection and testing of animals as provided in chapters one hundred sixty-three A (163A) and one hundred sixty-four (164) of the Code. The secretary of agriculture shall not approve a grant under this section to a county unless the board of supervisors has levied the maximum levy for the county brucellosis eradication fund under section one hundred sixty-four point twenty-three (164.23) of the Code for the fiscal year beginning July 1, 1978 and ending June 30, 1979 and all funds in the county brucellosis eradication fund including all unobligated funds transferred from the county tuberculosis eradication fund, have been expended. However, no individual claimant, in a single county, shall receive more than five thousand (5,000) dollars in a single fiscal year.

Sec. 3. There is appropriated from the general fund of the state to the Iowa development commission for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

1. a. For salaries and support of not more than forty-eight full-time permanent positions, and maintenance and miscellaneous purposes..... \$ 1,716,821

b. From funds appropriated by paragraph a of this subsection the Iowa development commission shall allocate not to exceed thirty-one thousand five hundred (31,500) dollars for the fiscal year ending June 30, 1979 for the seven regional tourism districts, not to exceed five thousand (5,000) dol-

lars per district, if the district provides on a dollar-to-dollar matching basis funds equal to the amount allocated by the Iowa development commission.

2. For salaries, support of no more than two full-time permanent positions, maintenance and miscellaneous purposes of the European office..... \$ 146,868

Sec. 4. There is appropriated from the general fund of the state to the Iowa state fair board for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the following sums, or so much thereof as is necessary, to be used for the purposes designated:

	1978-1979
	<u>Fiscal Year</u>
1. For maintenance of state fair buildings and grounds.....	\$ 80,000
2. For premiums.....	\$ 10,000
3. For state aid to agricultural societies (local fairs).....	\$ 210,000

4. The appropriation contained in subsection three (3) of this section for state aid to agricultural societies is conditional upon full compliance with all other statutes which regulate and prescribe the conditions under which such aid is available. In no case shall such moneys be used for other than the payment of cash premiums, and in no case shall any county receive more than two thousand one hundred (2,100) dollars except that in a county where there are two definitely separate county extension offices, each such society shall receive state aid

in such amount as it would be entitled to if it were the only society in the county. In counties having more than one fair entitled to state aid, the state aid available shall be prorated to the fairs based on cash premiums paid by the fairs.

Sec. 5. There is appropriated from the general fund of the state to Iowa state university of science and technology for the fiscal period beginning July 1, 1978 and ending June 30, 1979, the sum of three hundred thousand (300,000) dollars, or so much thereof as may be necessary, to be used by the energy and mineral resources research institute to conduct a coal research project within the state.

Sec. 6. It is the intent of the general assembly to provide for continued coal research within this state. The coal research project authorized under this Act shall include coal beneficiation research to be conducted at the Iowa state university preparation plant using coal purchased by the university as part of its usual energy requirement with funds provided for that purpose, the design and installation of fine coal recovery equipment at the plant, a study of the suitability of Iowa coal for use in the cement industry, and an agricultural productivity study of a reclaimed mine site.

Sec. 7. Funds appropriated by section five (5) of this Act shall be used solely for research as specified in section six (6) of this Act and shall not be used for related academic activities or studies.

Sec. 8. The energy and mineral resources research institute shall report on the progress of the coal research project to the budget natural resources subcommittees of both houses of the general assembly not later than January 15, 1979. The report shall include a description of the progress of the project, the results and perceived benefits of the research described in section six (6) of this Act, a summary of project expenditures, including anticipated expenditures and any proposals for continued coal research.

Sec. 9. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the energy policy council for salaries and support of not more than seven full-time permanent

positions, maintenance and miscellaneous purposes, the amount of two hundred fourteen thousand one hundred and ten (214,110) dollars, or so much thereof as is necessary.

Sec. 10. There is appropriated from the general fund of the state to Iowa state university of science and technology agricultural experiment station for the fiscal period beginning July 1, 1978 and ending June 30, 1979, the sum of seventy-five thousand (75,000) dollars, or so much thereof as may be necessary, to be used by the university to conduct a study and research of grain grading, testing and pricing in Iowa, such study and research to include but not be limited to the effects on grain grading, testing and pricing in Iowa of weight shrinkage factors, price discounts, grain product quality and present harvesting techniques.

The study and research conducted by the university shall include study and research in the field.

Sec. 11. There is appropriated from the general fund of the state and the funds indicated to the state conservation commission and its divisions for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1978-1979

Fiscal Year

1. DIVISION OF LANDS AND
WATERS

For deposit in the state conservation fund from the general fund of the state for salaries, support, maintenance, equipment and miscellaneous purposes for not more than one hundred seventy-two full-time permanent positions of the division, and for maintenance of state parks, waters, and forests, prison labor programs and including not more than one million sixty-eight thousand seven hundred sixty-seven (1,068,767) dollars which shall be available for the administration fund from the state conservation fund in compliance with the provi-

sions of section one hundred seven point seventeen (107.17) of the Code..... \$ 4,043,091

2. DIVISION OF FISH AND GAME

From the state fish and game protection fund for salaries, support, maintenance, equipment and miscellaneous purposes for not more than two hundred twenty-nine full-time permanent positions, including not more than one million sixty-eight thousand seven hundred sixty-seven (1,068,767) dollars, which shall be available from the state fish and game protection fund for the administration fund in compliance with the provisions of section one hundred seven point seventeen (107.17) of the Code..... \$ 6,785,130

3. STATE ADVISORY BOARD FOR PRESERVES

From the general fund of the state for salaries, support, and maintenance of not more than one full-time permanent position and for equipment and miscellaneous purposes for carrying out the duties of the board..... \$ 27,188

4. LAND SURVEYS

From the general fund of the state for land surveys to establish and identify the boundaries of state-owned land..... \$ 45,000

5. MISSOURI AND MISSISSIPPI RIVER BASIN COMMISSIONS

From the general fund of the state for the state's contribution for support of the Missouri and Mississippi River Basin Commissions..... \$ 46,546

6. GREEN THUMB PROGRAM

From the general fund for

deposit in the green thumb fund
for the employment of persons
under the green thumb program
established pursuant to chapter
six hundred one H (601H) of the
Code..... \$ 135,000

Sec. 12. The state conservation commission shall pay out of funds available to it the assessment of the city of Ventura, Iowa for a water line and the limitation for the payment of assessments provided for in section three hundred seven A point five (307A.5) of the Code shall not apply to this assessment.

Sec. 13. There is appropriated from the marine fuel tax fund for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the state conservation commission, division of lands and waters, such amounts of funds computed as provided in section three hundred twenty-four point eighty-four (324.84) of the Code, which funds shall be deposited in the state conservation fund for use in the state conservation commission recreational boating program as provided in subsections one (1) through five (5) of section three hundred twenty-four point seventy-nine (324.79) of the Code. The unencumbered or unobligated balances of funds specifically allocated for capital projects shall not revert to the fund from which appropriated until June 30, 1982.

Sec. 14.

1. The transfer of funds from the state conservation fund and the state fish and game protection fund to the administration funds shall not exceed the amounts specified in subsections one (1) and two (2) of section eleven (11) of this Act. Such funds shall be used for salaries and support of not more than one hundred five full-time permanent positions.

2. a. Funds remaining in the fish and game protection fund which are not specifically appropriated by section eleven (11) of this Act are appropriated and may be used for capital projects and contingencies arising during the fiscal year beginning July 1, 1978.

b. A contingency shall not include any purpose or project which was presented to the general assembly by way of a bill or a proposed bill and which failed to be enacted into law. For the purpose of this subsection, a necessity of additional operating funds may be construed as a contingency.

Before any of the funds authorized to be expended by this subsection shall be allocated for contingencies, it shall

be determined by the executive council that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation shall be for the best interests of the state.

If a contingency arises or could reasonably be foreseen during the time the general assembly is in session, expenditures for the contingency must be authorized by the general assembly.

3. All receipts and refunds and reimbursements related to activities funded by the administration fund are appropriated to the administration fund. All refunds and reimbursements relating to activities of the state fish and game protection fund shall be credited to the state fish and game protection fund.

4. The state conservation commission shall establish a priority list of watersheds above publicly-owned lakes and areas within those watersheds which are of highest importance based on soil loss to be used for the allocation of funds set aside in subsection six (6) of section fifteen (15) of this Act for permanent soil conservation practices on watersheds above publicly-owned lakes.

Sec. 15. There is appropriated from the general fund of the state to the department of soil conservation for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

1. GENERAL OFFICE

For salaries, support, and maintenance of not more than nineteen full-time permanent positions and for miscellaneous purposes..... \$ 408,917

2. SOIL CONSERVATION COMMITTEE

To carry on soil conservation work in soil conservation districts organized under the soil conservation district laws of the state; for aid to soil conservation districts for district commissioner's expenses,

stationery, postage and other purposes as may be authorized by the state soil conservation committee to be allocated on a need basis..... \$ 160,000

3. For salaries and necessary expenses, equipment, and materials to support personnel assigned to the soil conservation districts by the state soil conservation committee on a need basis..... \$ 1,431,970

4. For participation in and conjunction with the federal government or any of its agencies in joint operations of watershed planning and development within this state..... \$ 60,000

5. For use and expenditures in participation and conjunction with the soil conservation service, United States department of agriculture, and state agencies in joint operations in conducting soil surveys on lands within this state..... \$ 303,000

6. For cost sharing to provide state funding of not more than fifty percent of the approved cost of permanent soil conservation practices instituted under chapter four hundred sixty-seven A (467A) of the Code with priority given to projects on owner-operated and family-operated farms except that not more than five percent of the amount appropriated in this subsection may be used for cost sharing to abate complaints filed under sections four hundred sixty-seven A point forty-seven (467A.47) and four hundred sixty-seven A point forty-eight (467A.48) of the Code and five percent or more

of the amount appropriated by this subsection may be used for cost-sharing not to exceed seventy-five percent of the approved cost of permanent soil conservation practices under chapter four hundred sixty-seven A (467A) of the Code on watersheds above publicly-owned lakes to be allocated in accordance with the priority list established by the state conservation commission as required in subsection four (4) of section fourteen (14) of this Act..... \$ 4,220,000

Unencumbered or unobligated funds appropriated by this subsection remaining on June 30, 1982 shall revert to the general fund on September 30, 1982.

7. For support of conservancy district planning..... \$ 19,000

8. For the salary and support of one full-time permanent position to support the temporary land preservation policy commission..... \$ 12,885

Sec. 16. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the temporary land preservation policy commission the amount of one hundred three thousand six hundred forty-five (103,645) dollars, or so much thereof as is necessary, for two full-time permanent positions and support for the temporary land preservation policy commission. Full-time permanent positions authorized in this section are abolished on June thirtieth following the dissolution of the temporary land preservation policy commission pursuant to chapter fifty-three (53), section four (4), subsection ten (10) of the Acts of the Sixty-seventh General Assembly, 1977 Session.

Sec. 17. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979, to the following named agencies, the following amounts, or so much thereof as is necessary, to

be used for the purposes designated:

1978-1979
Fiscal Year

1. DEPARTMENT OF ENVIRONMENTAL QUALITY--GENERAL OFFICE

a. For salaries, support and maintenance of not more than one hundred eighty-four full-time permanent positions and for miscellaneous purposes..... \$ 1,851,059

During the fiscal year for which funds are appropriated by this section the Iowa department of environmental quality shall not require the installation or use of equipment to control the emission of dust or other particulate matter on facilities for the storage of grain which are located within the ambient air quality attainment areas for suspended particulates.

b. For conduct of ground water monitoring program related to the Cedar aquifer and Salsbury laboratories..... \$ 100,000

c. For payments to the governing bodies responsible for publicly-owned sewage treatment facilities which are eligible for grants under section two hundred two (202) of the federal Water Pollution Control Act as amended by the federal Clean Water Act of 1977, in an amount equal to five percent of the amount approved as the eligible cost of the project by the Iowa water pollution control commission..... \$ 2,000,000

d. The department of

environmental quality shall report to the general assembly no later than June 30, 1979, the total expenditures of the department in monitoring, regulating, or enforcing their responsibilities with regard to the Cedar aquifer and the Salsbury laboratories. Such report shall be inclusive of all federal, state and private funds expended by any state agency in this regard.

2. GEOLOGICAL SURVEY--GENERAL OFFICE

For salaries, support and maintenance of not more than twenty-seven full-time permanent positions and for miscellaneous purposes..... \$ 880,350

3. GEOLOGICAL SURVEY--WATER PLANNING

For salaries and support of not more than five full-time permanent positions..... \$ 116,110

4. GEOLOGICAL SURVEY

Iowa coal research program
 For salaries and support for not more than four full-time permanent positions, and for maintenance and miscellaneous purposes..... \$ 128,430

5. IOWA NATURAL RESOURCES COUNCIL--GENERAL OFFICE

For salaries, support and maintenance of not more than thirty-one full-time permanent positions and for miscellaneous purposes..... \$ 515,553

Notwithstanding the provisions of section four hundred fifty-five A point seventeen (455A.17) of the Code, the Iowa natural resources council may perform its statutory duties

relating to uses and developments of water sources of the state without meeting the provisions of a comprehensive statewide plan for the control, utilization, and protection of the water resources of the state until such time as the plan is prepared and completed.

6. MISSISSIPPI RIVER PARKWAY

COMMISSION

For support, maintenance and miscellaneous purposes..... \$ 9,000

Sec. 18. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts. Positions within state agencies funded with federal funds are approved for the duration of those funds only.

Sec. 19. Section ninety-three point two (93.2), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

93.2 COUNCIL ESTABLISHED.

1. There is established an energy policy council which shall consist of the following twelve members:

a. Four members of the general assembly. Two members shall be appointed by the speaker of the house from the membership of the house of representatives, not more than one of whom shall be from the same political party. Two members shall be appointed by the majority leader of the senate from the membership of the senate, not more than one of whom shall be from the same political party. Legislative members of the energy policy council shall vote only on policy statements.

b. The director of energy policy. The director shall be entitled to vote on a matter before the council only when the director's vote is necessary to determine the outcome of a tie vote.

c. Seven public members appointed by the governor for four-year terms commencing July first and subject to confirmation by two-thirds of the membership of the senate. The governor's appointees shall be knowledgeable in the fields of energy production, energy technology and energy management. Not more than four of the governor's appointees shall be from the same political party.

2. The following persons shall serve as ex officio nonvoting members of the council:

- a. The state geologist.
- b. The chairperson of the Iowa state commerce commission.
- c. The administrative officer of the state soil conservation committee.
- d. The director of transportation.
- e. The executive director of the Iowa department of environmental quality.
- f. The director of the Iowa natural resources council.

If the Iowa natural resources council is abolished or merged into another state agency by an act of the general assembly that becomes law, the director of the Iowa natural resources council shall cease to serve as an ex officio nonvoting member of the energy policy council.

- g. The secretary of agriculture.

Sec. 20. Section ninety-three point three (93.3), Code 1977, is amended to read as follows:

93.3 PERSONNEL. The governor shall appoint a director of energy policy who shall carry out duties assigned to ~~him~~ the director by the council or duties assigned to ~~him~~ the director by the governor pursuant to a proclamation of emergency issued under the provisions of section 93.8. The appointment of the director shall be subject to confirmation by two-thirds of the members of the senate. ~~The director shall be paid an annual salary in an amount not to exceed twenty-two thousand dollars. Other personnel utilized by the council shall be employed through a program of interchange of personnel between the council and other governmental agencies pursuant to chapter 28B~~ The employees of the council shall be subject to the provisions of chapter nineteen A (19A) of the Code. Any employee or any position established for an employee that is to be paid for from federal funds shall be terminated when the federal funds are no longer available.

Sec. 21. Section ninety-three point four (93.4), Code 1977, is amended to read as follows:

93.4 MEETINGS. The council shall organize ~~within ten days following June 13, 1974, by electing one of its members to serve as chairman and one to serve as vice chairman. The council shall establish~~ annually by establishing procedures and requirements with respect to quorum, place and conduct of meetings ~~and~~. The director shall serve as chairperson of the council. The members shall select the vice chairperson. The council may provide for the establishment of an executive committee selected from among the voting members of the council

to supervise the administrative duties assigned to the director.

Sec. 22. Section ninety-three point five (93.5), Code 1977, is amended to read as follows:

93.5 COMPENSATION AND EXPENSES. Council members who are not employees of the state shall receive a per diem at the rate of forty dollars for each day devoted to council business and all ~~nonlegislative~~ council members shall be reimbursed for actual expenses incurred in carrying out their duties as members of the council. ~~Legislative members shall receive payment pursuant to section 2-40 and section 2-42.~~

Sec. 23. Section ninety-three point seven (93.7), subsection one (1), paragraph i, Code 1977, is amended to read as follows:

i. Legislation necessary to implement the state policy for the development and utilization of energy sources and the comprehensive conservation plan. The council shall serve as policy advisor to the governor and the general assembly on all energy matters.

Sec. 24. Section ninety-three point seven (93.7), subsections five (5) and six (6), Code 1977, are amended to read as follows:

5. Review, propose and recommend legislation relating to the development and use of alternative sources of energy in this state and the reduction of dependence on nonrenewable sources of energy.

6. Develop and recommend public education and communication programs in energy conservation and conversion to alternative sources of energy.

Sec. 25. Chapter ninety-three (93), Code 1977, is amended by adding the following new sections:

NEW SECTION. REVIEW. The second session of the Sixty-ninth General Assembly meeting in the year 1982 shall review the activities and performance of the council and shall not later than July 1, 1982 make a determination concerning the status and duties of the council.

NEW SECTION. REPEAL. Chapter ninety-three (93) of the Code is repealed June 30, 1983.

Sec. 26. Of the initial public members appointed by the governor to the energy policy council, two members shall be appointed for terms ending June 30, 1980, two members shall be appointed for terms ending June 30, 1981, and three members

shall be appointed for terms ending June 30, 1982. The terms of public members serving on the energy policy council on June 30, 1978 shall expire on July 1, 1978.

Sec. 27. Acts of the Sixty-fifth General Assembly, 1974 Session, chapter one thousand one hundred thirteen (1113), section twenty-two (22), as amended by Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one thousand eighty-eight (1088), section five (5) and as codified in section ninety-three point sixteen (93.16), Code 1977, is repealed.

Sec. 28. Section four hundred fifty-five B point twenty-four (455B.24), subsection one (1), Code 1977, is amended by adding the following lettered paragraph:

NEW LETTERED PARAGRAPH. Location of emission monitoring devices in areas of the political subdivision in compliance with uniform state standards adopted by the commission. The commission shall adopt uniform state standards for the location of emission monitoring devices specifying such intervals and such procedures to provide a reasonably consistent measurement of emissions from air contaminant sources regardless of the political subdivision of the state in which the sources may be located.

Sec. 29. Section four hundred fifty-five B point thirty-two (455B.32), subsection eleven (11), Code 1977, is amended to read as follows:

11. Formulate and adopt specific and detailed statewide standards pursuant to chapter 17A for review of plans and specifications and the construction of sewer systems and water supply distribution systems and extensions to such systems not later than October 1, 1977. The standards shall be based on criteria contained in the "Recommended Standards for Sewage Works" and "Recommended Standards for Water Works" (Ten States Standards) as adopted by the Great Lakes-Upper Mississippi River board of state sanitary engineers, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. The material standards for polyvinyl chloride pipe shall not exceed the specifications for polyvinyl chloride pipe in designations D-1784-69, D-2241-73, D-2564-76, D-2672-76, D-3036-73 and D-3139-73 of the American society of testing and material. The rules adopted which directly pertain to the construction of sewer systems and water supply distribution systems and the review of plans and specifications for such construction shall be known respectively as the Iowa Standards for Sewer Systems and the

Iowa Standards for Water Supply Distribution Systems and shall be applicable in each governmental subdivision of the state. Exceptions shall be made to the standards so formulated only upon special request to and receipt of permission from the department. The department shall publish the standards and make copies of such standards available to governmental subdivisions and to the public.

Approved June 29, 1978

CHAPTER 1005

CIVIL RIGHTS, HEALTH, WELL-ELDERLY CLINICS, MEDICAL NURSES, PHARMACY, PAROLE, STATUS OF WOMEN, SPANISH SPEAKING, HANDICAPPED, AGING, SPANISH WAR VETERANS AND SUBSTANCE ABUSE AGENCIES APPROPRIATIONS

H. F. 2243

AN ACT relating to and appropriating funds to state agencies for designated service programs including health programs, civil rights and parole services and programs for minority, elderly and disadvantaged persons.

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

Section 1. There is appropriated from the general fund of the state to the Iowa civil rights commission for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of four hundred eighteen thousand five hundred thirteen (418,513) dollars, or so much thereof as is necessary, to be used for salaries, support, maintenance, and miscellaneous purposes.

It is the intent of the general assembly that the Iowa state civil rights commission shall not employ a deputy director but shall continue to employ a full-time permanent hearing officer to expedite action in the cases presently filed and pending before the commission. It is the intent of the general assembly that six positions be added to the table of organization for the civil rights commission as follows: one civil rights specialist III, three civil rights specialists II, one civil rights specialist I and one secretary I.

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the state department of health and

its divisions, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

STATE DEPARTMENT OF HEALTH

- 1. COMMISSIONER'S OFFICE
 - a. For salaries, support, maintenance, and miscellaneous purposes..... \$ 81,396
 - b. For medical procedures required by section seven hundred nine point ten (709.10) of the Code Supplement..... \$ 30,000
- 2. HEALTH FACILITIES SERVICES
 - For salaries, support, maintenance, and miscellaneous purposes..... \$524,718
- 3. DISEASE PREVENTION
 - For salaries, support, maintenance, and miscellaneous purposes..... \$536,014
- 4. RECORDS AND STATISTICAL DIVISION
 - For salaries, support, maintenance, and miscellaneous purposes..... \$364,411
- 5. LICENSING AND CERTIFICATION DIVISION
 - For salaries, support, maintenance, and miscellaneous purposes..... \$383,977

It is the intent of the general assembly that persons employed as health inspectors by the state department of health shall inspect both beauty salons and barber shops in their assigned areas. The department shall, with the assistance of the barber and cosmetology boards, determine any necessary redistribution of work loads among the health inspectors to facilitate the implementation of this paragraph.

The state department of health shall examine fee schedules for examining boards and shall notify the boards when fees are not meeting anticipated expenses with recommendations for fee increases prior to the next renewal period.

The commissioner of health shall by December 31, 1978 examine the policies and rules of licensing boards funded

by this subsection and shall determine whether the policies and rules are in compliance with applicable statutes. If the commissioner finds that the rules or policies of a licensing board are not in compliance with statutory requirements, the licensing board shall by February 15, 1979 change or amend the policies or rules to achieve compliance with the statute. If the commissioner determines that compliance with the statute has not been achieved within the time period prescribed by this paragraph the commissioner shall notify the state comptroller of the noncompliance and the state comptroller shall not issue any warrants to the licensing board for funds appropriated by this subsection.

6. PERSONAL AND FAMILY

HEALTH SERVICES

For salaries, support, maintenance, and miscellaneous purposes..... \$581,457

It is the intent of the general assembly that three hundred fifteen thousand four hundred forty-seven (315,447) dollars of this appropriation together with sufficient federal funds be allocated for the initiation and maintenance of services in genetic counseling in all areas of the state.

7. COMMUNITY HEALTH SERVICES

For salaries, support, maintenance, and miscellaneous purposes..... \$780,530

It is the intent of the general assembly that two positions be added to the table of organization for community health services as follows: one interpreter and one clerk-typist for deaf services.

8. EXTERNAL AFFAIRS DIVISION

For salaries, support, maintenance, and miscellaneous purposes..... \$ 47,453

9. MANAGEMENT AND BUDGET

DIVISION

For salaries, support, maintenance, and miscellaneous purposes..... \$273,852

10. HEALTH PLANNING DIVISION

For salaries, support, maintenance, and miscellaneous purposes..... \$ 49,927

11. CERTIFICATE OF NEED

For salaries, support, maintenance, and miscellaneous purposes..... \$181,621

Sec. 3.

1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of health the sum of two million two hundred twenty-eight thousand (2,228,000) dollars or so much thereof as may be necessary to be used to extend availability of public health nursing services or visiting nurse services and home health aide services to elderly persons in this state.

2. The department may retain not to exceed one percent of the amount appropriated by this section, to be used to pay the costs of administering this section. The remainder shall be allocated for use in the several counties of the state as follows:

a. One-fourth of the total amount to be allocated shall be divided so that an equal amount is available for use in each county in the state; and

b. Three-fourths of the total amount to be allocated shall be divided so that the share available for use in each county is proportionate to the number of elderly persons living in that county in relation to the total number of elderly persons living in the state.

3. The department shall make the money allocated for use in each county under subsection two (2) of this section available to be expended in that county as follows:

a. The local board of health having jurisdiction, after consultation with any other agencies which provide either public health nursing service, visiting nurse service, or homemaker-home health aide service in the jurisdiction, shall prepare a proposal for the use of the funds available for that jurisdiction which will provide the maximum benefits of expanded home health care to the elderly persons in the jurisdiction, and which shall include a statement assuring that the appropriate local agencies have participated in the formulation of the proposal. After approval of the proposal by the department, the department shall enter into a contract with the local board of health. The local board of health may subcontract with any nonprofit nurses' association, independent nonprofit agency, the department of social services

or any suitable local governmental body to use the funds to expand nursing or homemaker-home health aide services. Local boards of health shall make an effort to subcontract with agencies that are providing existing services to prevent the duplication of services.

b. It is the intent of the general assembly that local boards of health or subcontracting agencies shall use the funds received under this section to maintain and expand existing public health nursing programs, visiting nurses' services or homemaker-home health aide services. Funds received under this section shall not be used to replace, directly or indirectly funds received from taxes levied by a county.

4. If the department has by November 30, 1978 been unable to conclude contracts for use in any county or counties of the funds allocated under this section for use therein, the funds so allocated shall be considered an unallocated pool. The department shall prior to December 31, 1978 reallocate any funds in such an unallocated pool among those counties with respect to which the department has concluded contracts under subsection three (3) of this section. The reallocation shall be made in substantially the manner prescribed by subsection two (2) of this section, and the funds shall be available for use in the counties to which they are so reallocated during the period beginning January 1, 1979 and ending June 30, 1979.

Sec. 4. For the purposes of sections three (3) through six (6) of this Act, an "elderly person" is a person who is sixty years of age or older.

Sec. 5. The department of health shall within thirty days after the effective date of this Act promulgate rules not contrary to sections three (3) through six (6) of this Act defining eligibility for public health nursing services and for homemaker-home health aide services paid for by funds appropriated by section three (3) of this Act, and imposing a sliding fee scale for those persons deemed able to pay all or a portion of the cost of such services.

Sec. 6. There is appropriated from the general fund of the state to the state department of health for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of two hundred twelve thousand (212,000) dollars or so much thereof as may be necessary to be used for the development and maintenance of well-elderly clinics in the state.

Sec. 7. There is appropriated from the general fund of

the state to the following agencies for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the following amounts, or so much thereof as is necessary to be used for the purposes designated:

1978-1979
Fiscal Year

1. BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance
and miscellaneous purposes \$139,555

It is the intent of the general assembly that three thousand two hundred (3,200) dollars of this sum shall be used to activate the physicians assistants advisory board.

It is the intent of the general assembly that not less than twenty-nine thousand five hundred forty-two (29,542) dollars of the funds appropriated by this subsection shall be used for salary, support and travel expenses for a staff member who shall visit and investigate persons licensed by the board. The staff member may commence an investigation upon request but may in his or her discretion visit and investigate any person licensed by the board. The intent of the general assembly is to provide more forceful and effective enforcement of section one hundred forty-eight point six (148.6) of the Code.

2. BOARD OF NURSE EXAMINERS

For salaries, support, maintenance
and miscellaneous purposes \$296,237

3. BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance
and miscellaneous purposes \$208,253

4. BOARD OF PAROLE

For salaries, support, maintenance
and miscellaneous purposes \$238,915

5. COMMISSION ON THE STATUS OF
WOMEN

For salaries, support, maintenance
and miscellaneous purposes \$ 60,616

6. SPANISH-SPEAKING PEOPLES
COMMISSION

For salaries, support, maintenance
and miscellaneous purposes \$ 51,002

7. COMMITTEE ON THE EMPLOYMENT
OF THE HANDICAPPED

For salaries, support, maintenance
and miscellaneous purposes \$103,223

8. SPANISH-AMERICAN WAR VETERANS

For salaries, support, maintenance
and miscellaneous purposes \$ 3,990

9. COMMISSION ON AGING

a. For salaries, support,
maintenance and miscellaneous
purposes \$142,871

b. For the administration
of area agencies on aging
provided that existing area
agencies on aging do not merge
with one another \$103,680

c. For the senior citizen
employment program \$108,000

d. For the development
and maintenance of senior
centers \$158,000

It is the intent of the general assembly that
\$42,000 of the funds appropriated by this lettered
paragraph be used for a senior center to be established
in the low income and minority community located on
the north side of Waterloo, Iowa. The remainder of
the funds shall be used to fund at least three
additional senior centers in the state.

10. DEPARTMENT OF SUBSTANCE

ABUSE

For salaries, support,
maintenance and miscellaneous
purposes \$114,215

Sec. 8. All federal grants to and the federal receipts
of the agencies appropriated funds under this Act are
appropriated for the purposes set forth in such federal grants
or receipts.

Approved April 13, 1978

CHAPTER 1006

EDUCATIONAL AGENCIES CAPITAL PROJECTS

S. F. 2229

AN ACT relating to and appropriating funds for capital projects relating to educational agencies.

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

Section 1. There is appropriated from the general fund of the state to the department of general services for the use of the educational radio and television facility board, the sum of eighty-eight thousand (88,000) dollars, or so much thereof as is necessary, to supplement funds appropriated for the installation of translators to aid in providing educational television coverage throughout the state. Funds appropriated by this section shall revert and be subject to the same requirements as funds appropriated by the Acts of the Sixty-fifth General Assembly, 1974 Session, chapter one thousand thirty-one (1031), section four (4), as amended by the Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one thousand thirty-nine (1039), section three (3).

Sec. 2. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter fourteen (14), section one (1), is amended to read as follows:

SECTION 1. There is appropriated from the general fund of the state to the educational radio and television facility board for the fiscal year period beginning July 1, 1977 and ending June 30, ~~1978~~ 1979 the sum of ninety thousand (90,000) dollars, or so much thereof as is necessary, for the establishment of a local microwave loop.

Sec. 3. There is appropriated from the general fund of the state to the department of public instruction for the fiscal period beginning July 1, 1978 the sum of eighty-five thousand (85,000) dollars, or so much thereof as is necessary, to be disbursed to the Iowa western community college for educational broadcasting facilities subject to receipt of a matching two hundred fifty-five thousand dollar grant from the United States department of health, education, and welfare. Unobligated or unencumbered funds appropriated by this section remaining on June 30, 1982 shall revert to the general fund of the state on September 30, 1982.

Sec. 4. There is appropriated from the general fund of

the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the state board of regents the sum of three million four hundred sixty-five thousand (3,465,000) dollars, or so much thereof as is necessary, to be allocated to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa in such amounts as may be necessary to reimburse such institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at such institutions.

Sec. 5. There is appropriated from the general fund of the state to the state board of regents for the fiscal period beginning July 1, 1978 to the following named agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. STATE UNIVERSITY OF IOWA

For the Lindquist center for measurement--phase II, equipment \$ 535,000

2. IOWA STATE UNIVERSITY
OF SCIENCE AND TECHNOLOGY

For construction of a new music building \$ 3,620,000

3. STATE BOARD OF REGENTS

For capital improvement items for repairs, improvements, purchases of land, leases, equipment, replacements or alterations, or for any other capital expenditures the state board of regents may deem necessary for the proper and necessary functions of all institutions under its jurisdiction \$ 395,000

However, funds appropriated by this subsection shall not be used for planning the construction of new buildings or major additions to existing buildings.

Unobligated or unencumbered funds remaining on June 30, 1982 from funds appropriated by this section shall revert

to the general fund of the state on September 30, 1982.

Sec. 6. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

Approved May 10, 1978

CHAPTER 1007

EDUCATIONAL RADIO AND TELEVISION

H. F. 2450

AN ACT appropriating funds from the general fund of the state to the state educational radio and television facility board for its general operations.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year commencing July 1, 1978 and ending June 30, 1979 to the state educational radio and television facility the sum of three million eight hundred fifty-six thousand six hundred (3,856,600) dollars, or so much thereof as may be necessary, to be used for salaries, support, maintenance and miscellaneous purposes.

Sec. 2. All federal grants to and the federal receipts of the agency appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts. Positions within the state agency funded with federal funds are approved for the duration of those funds only.

Approved June 5, 1978

CHAPTER 1008

EXPENSE OF MEDICAL EXAMINATION FOR VENEREAL DISEASE

H. F. 2245

AN ACT making an appropriation to the state department of health to fund the gathering of evidence and the cost of treatment required by section seven hundred nine point ten (709.10), Code 1977 supplement.

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

Section 1. There is appropriated from the general fund of the state to the state department of health the sum of fifteen thousand (15,000) dollars, or so much thereof as is necessary, to be used to pay the cost of medical examinations for the purpose of gathering evidence and the cost of treatment for the purpose of preventing venereal disease as required by section seven hundred nine point ten (709.10) of the Code 1977 Supplement.

Sec. 2. Unencumbered or unobligated balances of funds appropriated by this Act remaining on June 30, 1979 shall revert to the general fund of the state.

Sec. 3. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Waterloo Courier, a newspaper published in Waterloo, Iowa, and in The Belle Plaine Union, a newspaper published in Belle Plaine, Iowa.

Approved April 27, 1978

I hereby certify that the foregoing Act, House File 2245, was published in The Waterloo Courier, Waterloo, Iowa on May 4, 1978, and in the Belle Plaine Union, Belle Plaine, Iowa on May 3, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1009

FAIR BOARD, CONSERVATION COMMISSION, HERBERT HOOVER MEMORIAL, IOWA STATE UNIVERSITY, GEOLOGICAL SURVEY, SOIL CONSERVATION AND ENERGY POLICY COUNCIL

S. F. 2267

AN ACT relating to and appropriating funds for capital improvements and studies of agencies and departments with responsibilities in natural resources.

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

Section 1. There is appropriated from the general fund of the state to the following named agencies the amounts of money indicated or so much thereof as may be necessary for the purposes designated.

1. STATE FAIR BOARD

a. For major repairs and improvements to the state fair-ground \$ 315,000

b. For the development of a comprehensive master plan for the development of the state fair including alternatives for the relocation of facilities, development of new facilities, use of existing facilities and proposals for the financing of the state fair and fairground development \$ 50,000

The comprehensive master plan shall be conducted by an independent research staff supervised by a committee composed of a senator appointed by the majority leader of senate, a representative appointed by the speaker of the house of representatives, the fair manager, and two residents of the state appointed by the governor.

2. STATE CONSERVATION COMMISSION

a. For construction, replacement, development and alterations to state parks and preserves, state forest facilities and state waters including artificial lake development; shoreline erosion and siltation control; river, stream and lake access; open spaces land acquisition; and engineering and planning services or to supplement any prior appropriation for such purposes \$2,965,000

Any land purchased by the state conservation commission pursuant to the open space land acquisition program shall be purchased from a willing seller only.

b. For the purpose of conducting a statewide assessment of the current and potential roles of low-head dams in Iowa \$ 50,000

It is the intent of the general assembly that this study determine the potential of low-head dams in Iowa for recreational opportunity, fish and wildlife habitat, energy production, water supply, past and future environmental effects, prevention of channel erosion and sediment control, and be a cooperative effort with the energy policy council and the Iowa natural resources council. One full-time position is authorized for this study.

c. For the preparation of a general plan for the design

and establishment of a system of protected water areas and those adjacent lands needed to protect the integrity of that system. One full-time position is authorized for the preparation of this plan \$ 50,000

3. HERBERT HOOVER MEMORIAL BIRTHPLACE FOUNDATION

For the purpose of assisting with capital improvements \$ 2,750

4. IOWA STATE UNIVERSITY ENERGY AND MINERAL RESOURCES RESEARCH INSTITUTE

For the purchase of a heavy media cyclone separator and supporting equipment \$ 160,000

5. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

For the purpose of designing and assembling a farm-scale plant for the production of ethanol from grain and waste products readily available on a farm and determining the management and operational requirements of the plant \$ 51,000

6. STATE GEOLOGICAL SURVEY

For the purpose of designing and constructing a warehouse and office space \$ 250,000

7. DEPARTMENT OF SOIL CONSERVATION

For the purpose of cost-sharing not exceeding fifty percent of the approved cost of permanent soil and water conservation practices as defined in chapter four hundred sixty-seven A (467A) of the Code \$ 500,000

8. ENERGY POLICY COUNCIL

For contracting for re-
search to perfect the design
and commercial use of coal
gasification and refining in

Iowa \$ 100,000

Sec. 2. Departments and agencies appropriated funds by this Act shall report to the general assembly on the progress and accomplishments of the projects for which funds are appropriated. Each department or agency shall submit written project plans to the legislative fiscal director prior to obligation of funds appropriated by this Act. Project plans will state the goals, objectives, costs, funding and timetables of these projects. Each department or agency shall submit quarterly reports beginning September 30, 1978 until completion of the project on the accomplishment of project goals and objectives in relation to the intended timetable for project progress. The legislative fiscal director shall report periodically to the general assembly, and at its request, on these matters.

Sec. 3. All funds appropriated by section one (1) of this Act, except those appropriated by subsection seven (7) of section one (1), are appropriated for the fiscal period beginning July 1, 1978 and ending June 30, 1979. The funds appropriated by subsection seven (7) of section one (1) are appropriated for the fiscal period beginning July 1, 1978 and ending June 30, 1982. All funds appropriated by this Act which are unencumbered at the end of the fiscal period for which they are appropriated shall revert to the general fund of the state.

Sec. 4. Funds which are appropriated to the state conservation commission for the construction of a lake on the Frog Hollow watershed of the Volga River by Acts of the Sixty-fifth General Assembly, 1974 Session, chapter one thousand twenty-six (1026), section one (1), subsection three (3) as amended by Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one thousand two hundred five (1205), section six (6) and Acts of the Sixty-seventh General Assembly, 1977 Session, chapter thirty-three (33), section five (5), and which are unencumbered shall be used to develop the recreational potential of the Volga River recreation area and shall not be transferred to another project.

Sec. 5. All federal grants to and federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants and receipts.

Sec. 6. When the state conservation commission has entered into agreements with other units of government for projects pursuant to the federal "Watershed Protection and Flood Prevention Act" and the development of those projects would be delayed in funding by the state conservation commission, the commission shall give priority to those projects when allocating unobligated funds appropriated by this Act.

Sec. 7. Funds appropriated by section one (1), subsection two (2) of this Act, or any other funds available to the state conservation commission, shall not be used to acquire land to expand the state park at Lake Macbride.

Approved June 13, 1978

CHAPTER 1010

GENERAL SERVICES DEPARTMENT

H. F. 2170

AN ACT making appropriations to the department of general services for operating purposes.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the following named agency, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

1. DEPARTMENT OF GENERAL
SERVICES

a. OFFICE OF THE DIRECTOR
For salaries, support, main-
tenance and miscellaneous services \$ 115,643

b. GENERAL ADMINISTRATION
For salaries, support, main-
tenance and miscellaneous purposes \$ 310,846

c. UTILITY COSTS
(1) For payment of utility
costs \$ 1,093,750

(2) It is a condition of the
general assembly in appropriating
funds under this paragraph that
no transfers shall be made under
section eight point thirty-nine
(8.39) of the Code for payment
of utility costs.

(3) The funds appropriated
by this paragraph shall not be-
come available unless the depart-
ment of general services has sub-
mitted a comprehensive energy
conservation plan for the capitol
complex to the legislative coun-
cil on or before the effective
tive date of this Act.

d. BUILDINGS AND GROUNDS
For salaries, support, main-
tenance and miscellaneous purposes \$ 2,100,731

(1) The funds appropriated by
this paragraph shall include the
installation of one emergency exit
device on the east doors, main
floor of the capitol, and further,
that the buildings and grounds
department shall initiate plans
to implement similar devices on
all other exits as soon as practical.

(2) The buildings and grounds
department, at the time of moderni-

zation of the south elevator car, shall equip the car for operator and or automatic control for more effective use after hours.

e. PRINTING DIVISION

For salaries, support, maintenance and miscellaneous purposes \$ 156,277

f. COMMUNICATIONS DIVISION

For salaries, support, maintenance and miscellaneous purposes \$ 208,417

g. RECORDS MANAGEMENT

For salaries, support, maintenance and miscellaneous purposes \$ 216,700

It is the intent of the general assembly that two additional positions be authorized for use in the microfilming of health department records and documents. These positions shall be reimbursed by funds appropriated to the health department.

2. DEPARTMENT OF GENERAL SERVICES--REVOLVING FUNDS

a. From the centralized printing permanent revolving fund established by section eighteen point fifty-seven (18.57) of the Code for salaries, support, maintenance and miscellaneous purposes \$ 461,899

b. The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding, distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 1978 which are legally payable from this fund.

c. From the general ser-

vice revolving fund established by section eighteen point nine (18.9) of the Code for salaries, support, maintenance and miscellaneous purposes \$ 319,038

d. The remainder of the general service revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 1978 which are legally payable from this fund.

e. From the vehicle dispatcher revolving fund established by section eighteen point one hundred nineteen (18.119) of the Code for salaries, support, maintenance and miscellaneous purposes \$ 305,324

f. The remainder of the vehicle dispatcher revolving fund is appropriated for the purchase of gasoline, oil, tires, repairs and all other maintenance expenses incurred in the operation of state-owned motor vehicles and for contingencies arising during the fiscal year beginning July 1, 1978 which are legally payable from this fund.

g. A contingency under this subsection shall not include any purpose or project which was presented to the general assembly or any standing committee or subcommittee of a standing committee by any person by way of a bill, proposed bill, amendment to a bill, written document, or a proposal which is documented by the minutes, records, or reports of a committee or subcommittee, and

which failed to be enacted into law. For the purpose of this section a necessity of additional operating funds may be construed as a contingency.

Sec. 2. All federal grants to and the federal receipts of the agency appropriated funds under this division are appropriated for the purposes set forth in such federal grants and receipts.

Approved May 12, 1978

CHAPTER 1011
GENERAL SERVICES

H. F. 2423

AN ACT making appropriations to the department of general services for designated capital improvements and expenses.

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

Section 1. There is appropriated from the general fund of the state for the fiscal period beginning July 1, 1978 and ending June 30, 1982 the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

DEPARTMENT OF GENERAL SERVICES

1. DIVISION OF BUILDINGS AND GROUNDS

It is a condition of the general assembly in appropriating funds under this subsection that the location and design of all projects be approved by the capitol planning commission.

For capital improvements and repairs as follows: \$560,000

- a. For construction of a new parking lot on the executive hill's grounds.
- b. For the construction of a maintenance building.
- c. For new paving and curbs for the west capitol drives.
- d. For resurfacing the vehicle dispatcher lot and alley.
- e. For demolition of the old service station and construction of a parking lot.
- f. For phase IV of sidewalk and curb replacement on the capitol grounds.

It is the intent of the general assembly in appropriating

funds under this subsection that the building known as executive hills not be demolished and that the department of general services determine the feasibility and duration of alternative uses for such building and make a report to the budget committee in regard to such uses during the 1979 legislative session.

It is the intent of the general assembly that the parking facility created by the closing of Locust Street be retained as a parking facility until additional parking can be provided elsewhere on the capitol complex for those parking spaces that will not be available because of a change in the present parking area. The capitol planning commission shall recommend, by January 1, 1980, whether Locust Street be reopened, a pedestrian mall be established, or another suitable approach to the capitol building be provided for, including alternative recommendations.

2. OFFICE OF THE DIRECTOR

a. For furniture and moving expense for agencies to be located in the Hoover building \$700,000

b. For acquisition of land within the boundaries bounded by Des Moines Street on the south, Interstate I-235 on the north, East Fourteenth Street on the east, and Pennsylvania Avenue on the west \$250,000

c. For the preparation of a full schematic architectural and engineering design for construction in the east capitol courtyard area as part of the capitol mall project, and for preliminary study of an additional three hundred car underground parking garage \$ 25,000

The director of the department of general services shall cooperate with the capitol planning commission in the preparation of the plans for which funds are appropriated by this paragraph. The capitol planning commission shall make periodic reports to the legislative council regarding the development of such plans, and shall make a formal report on such plans to the 1979 Session of the Sixty-eighth General Assembly.

3. The director of the department of general services may investigate the feasibility of cooperating with the city of Des Moines and the Des Moines metropolitan transit authority in the joint use of city parking facilities for state employees.

4. All unencumbered or unobligated balances of appropriations made by subsection one (1) of this section remaining on June 30, 1982 shall on September 30, 1982 revert to the state treasury and to the credit of the general fund.

Sec. 2. NEW SECTION. There is appropriated from the general fund of the state to the department of general services for the use of the Iowa library department, law library division, for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of forty-two thousand (42,000) dollars, or so much thereof as is necessary, to be used for the following purposes:

1. The removal of free-standing bookshelves;
2. The removal of bookshelves from reading and study rooms;
3. The installation of a wood guard rail at the glass transom;
4. The taking up of the slack of the two bays of stack-tier shelving;
5. The repainting of painted areas and refinishing wood finishes; and
6. The replacing of carpeting.

The capital improvements provided for in this section shall be accomplished without materially changing the architectural integrity or beauty of the library with the purpose of restoring the library to its original condition and maintaining the aesthetic decor of the library.

Sec. 3. All federal grants to and the federal receipts of the agencies appropriated funds under this division are appropriated for the purposes set forth in such federal grants and receipts.

Approved June 26, 1978

CHAPTER 1012

GOVERNOR'S OFFICE AND MANSION

S. F. 2128

AN ACT making an appropriation to the office of governor including funds for the administration and management of the Terrace Hill governor's mansion.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the following named agency, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1978-1979
	<u>Fiscal Year</u>
GOVERNOR	
1. For salaries, support, maintenance and miscellaneous purposes of the general office of the governor	\$ 410,276
2. For governor's expense connected with office	\$ 6,000
3. Terrace Hill governor's mansion.	

It is a condition of the general assembly in appropriating funds under this subsection that the administration and management of the Terrace Hill governor's mansion be under the control of the governor's office and that no transfers shall be made to or from the funds appropriated under section eight point thirty-nine (8.39) of the Code and funds shall not be expended under section nineteen point twenty-nine (19.29) of the Code, except for emergency repairs necessitated by damage to Terrace Hill from acts of nature, accidents, or vandalism, and no personnel other than personnel funded under paragraphs a and b of this subsection shall be utilized or transferred for permanent maintenance or security of the Terrace Hill governor's mansion and the Terrace Hill governor's mansion shall be open to the general public without prior appointment not less than ten hours during each week beginning July 1, 1978.

a. For salaries, support, and maintenance of the governor's

mansion known as Terrace Hill \$ 116,300

b. For salaries and support to provide security to the governor and the governor's mansion through the use of department of public safety personnel \$ 180,000

Sec. 2. There is appropriated from the general fund of the state to the office of the governor for the fiscal year commencing July 1, 1978 and ending June 30, 1979, the following amount or so much thereof as is necessary, to be used for the purposes designated:

For the payment of expenses of ad hoc committees, councils and task forces appointed by the governor to research and analyze a particular subject area relevant to the problems and responsibilities of state and local government, including the employment of professional, technical and administrative staff and the payment of per diem, not exceeding forty dollars, and actual expenses of committee, council or task force members \$ 50,000

Sec. 3. The office of the administrative rules coordinator shall be funded pursuant to the provisions of section fourteen point twenty-two (14.22) of the Code for the fiscal year beginning July 1, 1978, only.

Sec. 4. All federal grants to and the federal receipts of the agency appropriated funds under this division are appropriated for the purposes set forth in such federal grants and receipts.

Approved June 5, 1978

CHAPTER 1013

INMATE EMPLOYMENT PROGRAM

H. F. 2180

AN ACT making an appropriation for the inmate employment program.

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

Section 1. There is appropriated from the general fund of the state to the department of social services for the fiscal period beginning with the effective date of this Act and ending June 30, 1979 the sum of four hundred seventy thousand (470,000) dollars, or so much thereof as is necessary, which shall be used to supplement funds previously appropriated for the inmate employment program, and to establish half-way houses at Ames and Marshalltown for the persons participating in the inmate employment program.

Sec. 2. The department of social services may establish three new positions by converting existing personnel positions that are vacant. The department shall determine room and board rates for inmates participating in the inmate employment program that are measurable and based upon costs for operation of the half-way houses.

Sec. 3. Notwithstanding section eight point thirty-nine (8.39) of the Code, funds appropriated by this Act shall not be transferred or used for any other purposes other than the purposes specified in section one (1) or two (2) of this Act.

Sec. 4. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Bayard News, a newspaper published in Bayard, Iowa, and in The Marion Sentinel, a newspaper published in Marion, Iowa.

Approved March 22, 1978

I hereby certify that the foregoing Act, House File 2180, was published in The Bayard News, Bayard, Iowa on March 30, 1978, and in The Marion Sentinel, Marion, Iowa on March 30, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1014
JUDICIAL DEPARTMENT
S. F. 2246

AN ACT making an appropriation to the judicial department.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the following named judicial department agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

1. COURTS

For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates, and staff, support, maintenance, equipment and miscellaneous purposes including a state contribution to the judicial retirement system provided for in chapter six hundred five A (605A) of the Code in the amount of three percent of such salaries \$ 6,805,550

2. BOARDS APPOINTED BY THE SUPREME COURT

For salaries, support, maintenance and miscellaneous purposes of the board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission \$ 39,374

3. ADMINISTRATION

For salaries, support, maintenance, equipment and miscellaneous purposes of the court administrator, and clerk of the supreme court \$ 439,000

Sec. 2. All federal grants to and the federal receipts

of the agencies appropriated funds under this division are appropriated for the purposes set forth in such federal grants and receipts.

Approved May 9, 1978

CHAPTER 1015

DEPARTMENT OF JUSTICE

H. F. 2174

AN ACT making appropriations to the department of justice.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the following named department, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

DEPARTMENT OF JUSTICE

1. For the general office of attorney general for salaries, support, maintenance and miscellaneous purposes \$ 1,657,033

a. Funds are included within this subsection for the area and special prosecutor's program.

b. It is the intent of the general assembly that one additional assistant attorney general position be authorized for use by the state conservation commission, Iowa natural resources council, and department of environmental quality. These departments shall reimburse the office of attorney general for the cost of the additional assistant attorney general. It is also the intent of the general assembly

that no reduction in present staff to these departments take place.

c. For printing and distribution of Report of the Attorney General \$ 19,800

2. Prosecuting attorney training program

For salaries, support, maintenance and miscellaneous purposes \$ 26,500

Funds appropriated by this subsection shall be used to attract federal and county funding.

3. Prosecuting intern program \$ 52,500

Counties participating in the prosecuting intern program shall match funds appropriated by this subsection.

Sec. 2. All federal grants to and the federal receipts of the agency appropriated funds under this division are appropriated for the purposes set forth in such federal grants and receipts.

Approved May 12, 1978

CHAPTER 1016

MONEYS AND CREDITS REPLACEMENT, COUNTY ASSISTANCE, MUNICIPAL ASSISTANCE, ARCHITECTURAL AND LANDSCAPE EXAMINERS, WATCHMAKERS, ACCOUNTANCY, MOTOR VEHICLE USE TAX, CITY FINANCE COMMITTEE, AUDITOR OF STATE, BANKING, BEER AND LIQUOR, CAMPAIGN FINANCE, COMPTROLLER, ENGINEERING, INDUSTRIAL COMMISSIONER, INSURANCE DEPARTMENT, JOB SERVICE, PUBLIC EMPLOYMENT RELATIONS, REAL ESTATE, REVENUE DEPARTMENT, SECRETARY OF STATE, TREASURER, STATE EMPLOYEES FRINGE BENEFITS AND INCREASES

H. F. 2189

AN ACT making appropriations to miscellaneous state and local government agencies including regulatory agencies and boards and local and state government administrative agencies.

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

Section 1. There is appropriated from the general fund of the state to the moneys and credits replacement fund established in section four hundred twenty-two point seventy-eight (422.78) of the Code for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of two million five hundred thousand (2,500,000) dollars, or so much thereof as may be necessary, to be used for payments to counties as provided in section four hundred twenty-two point seventy-eight (422.78) of the Code.

Sec. 2. There is appropriated from the general fund of the state to the county government assistance fund, established in section three hundred thirty-four A point one (334A.1) of the Code, for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of four million (4,000,000) dollars, or so much thereof as may be necessary, to be used for state assistance to counties, with distribution in accordance with section three hundred thirty-four A point two (334A.2) of the Code.

Sec. 3. There is appropriated from the general fund of the state to the municipal assistance fund, established in section four hundred five point one (405.1) of the Code, for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of twelve million (12,000,000) dollars, or so much thereof as may be necessary, to be used for state assistance to municipalities, with distribution in accordance with section four hundred five point one (405.1) of the Code.

Sec. 4. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and

ending June 30, 1979 to the following boards the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1978-1979 <u>Fiscal Year</u>
1. BOARD OF ARCHITECTURAL EXAMINERS	
For salaries, support, maintenance and miscellaneous purposes.....	\$ 34,279
2. BOARD OF LANDSCAPE ARCHITECTURAL EXAMINERS	
For salary, support, maintenance and miscellaneous purposes.....	\$ 13,936
3. BOARD OF WATCHMAKING EXAMINERS	
For salary, support, maintenance and miscellaneous purposes.....	\$ 8,446
4. BOARD OF ACCOUNTANCY	
For salaries, support, maintenance and miscellaneous purposes.....	\$ 153,359

Sec. 5. There is appropriated from the motor vehicle fuel tax fund to the department of revenue for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of one million three hundred eight thousand one hundred eight (1,308,108) dollars, or so much thereof as may be necessary, for salaries, support, maintenance and miscellaneous purposes for administration and enforcement of the provisions of chapter three hundred twenty-four (324) of the Code and the motor vehicle use tax program.

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the state comptroller the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1978-1979 <u>Fiscal Year</u>
1. For city finance committee.....	\$ 12,000
2. For Iowa comprehensive conference.....	\$ 20,000

Sec. 7. There is appropriated from the general fund of the state to the following departments for the fiscal year beginning July 1, 1978, and ending June 30, 1979, the following amounts, or so much thereof as may be necessary, to be used

for the following purposes:

	1978-1979 <u>Fiscal Year</u>
1. AUDITOR OF STATE	
For salaries, support, maintenance, and miscellaneous purposes.....	\$ 1,096,079
2. DEPARTMENT OF BANKING	
For salaries, support, maintenance, and miscellaneous purposes.....	\$ 2,265,394
3. IOWA BEER AND LIQUOR CONTROL DEPARTMENT	
For salaries, support, maintenance, and miscellaneous purposes.....	\$12,207,879
<p>It is the intent of the general assembly that the director of the Iowa beer and liquor control department shall expend an amount not to exceed one hundred fifty thousand (150,000) dollars appropriated by this subsection to schedule flexible hours of operations in sixteen stores designated by the director to keep these sixteen stores open until ten p.m. on days when such stores are in operation. The director may provide for the extension of the hours a store is open in order to keep the store open until ten p.m. on days when such stores are in operation or the director may provide for an opening time at a later hour during the day in order to keep the store open until ten p.m. on days when such stores are in operation.</p>	
4. CAMPAIGN FINANCE DISCLOSURE COMMISSION	
For salaries, support, maintenance, and miscellaneous purposes.....	\$ 83,285
5. IOWA STATE COMMERCE COMMISSION	
a. General Administration	
For salaries, support, maintenance, and miscellaneous purposes.....	\$ 298,409

b. Warehouse Division

For salaries, support, maintenance,
and miscellaneous purposes..... \$ 407,256

c. Utilities Division

For salaries, support, maintenance,
and miscellaneous purposes..... \$ 1,765,597

6. STATE COMPTROLLER

a. General Office

For salaries, support, maintenance,
and miscellaneous purposes..... \$ 946,922

b. Division of Data Processing

For salaries, support, maintenance,
expenses incurred as a result of
relocation and miscellaneous pur-
poses..... \$ 4,241,594

c. It is the intent of the gen-
eral assembly that the state comp-
troller may expend funds appropri-
ated pursuant to subsection six (6),
paragraph b, of this section and
funds appropriated by Acts of the
Sixty-seventh General Assembly, 1977
Session, chapter nine (9), section
one (1), subsection six (6), para-
graph b, to the state comptroller
for the fiscal year beginning July
1, 1977 and ending June 30, 1978 to
enter into leases, lease-purchase,
or purchase agreements in accor-
dance with established procurement
procedures of the department of
general services for the currently
leased international business ma-
chine 370/158 centralized data pro-
cessing units and other necessary
data processing equipment. In ad-
dition, with the approval of the
executive council, the state comp-
troller may sell such centralized
data processing units. The proceeds
from the sale of such centralized
data processing units may be used
to supplement the appropriation in

subsection six (6), paragraph b, of this section in an amount not to exceed eight hundred sixty-six thousand (866,000) dollars. Proceeds received from the sale of such centralized data processing units in excess of eight hundred sixty-six thousand (866,000) dollars shall be credited to the general fund of the state.

7. STATE BOARD OF ENGINEERING EXAMINERS

For salaries, support, maintenance, and miscellaneous purposes..... \$ 76,136

8. INDUSTRIAL COMMISSIONER

For salaries, support, maintenance, and miscellaneous purposes..... \$ 636,401

9. INSURANCE DEPARTMENT OF IOWA

For salaries, support, maintenance, and miscellaneous purposes..... \$ 1,521,698

10. IOWA DEPARTMENT OF JOB SERVICE

For salaries, support, maintenance, and miscellaneous purposes for the administration of chapter ninety-seven (97) and chapter ninety-seven C (97C) and section two hundred ninety-four point fifteen (294.15) of the Code..... \$ 113,845

11. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

For salaries, support, maintenance, and miscellaneous purposes..... \$ 38,293

12. PUBLIC EMPLOYMENT RELATIONS BOARD

For salaries, support, maintenance, and miscellaneous purposes..... \$ 483,616

13. IOWA REAL ESTATE COMMISSION

For salaries, support, maintenance, and miscellaneous purposes..... \$ 207,259

14. DEPARTMENT OF REVENUE

For salaries, support, maintenance,

and miscellaneous purposes..... \$ 9,515,666

15. SECRETARY OF STATE

For salaries, support, maintenance,
and miscellaneous purposes..... \$ 597,060

16. TREASURER OF STATE

For salaries, support, maintenance,
and miscellaneous purposes..... \$ 315,736

Sec. 8. There is appropriated from the general fund of the state to the salary adjustment fund established by Acts of the Sixty-seventh General Assembly, 1977 Extraordinary Session, chapter one (1), section two (2) for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of three million nine hundred fifty-six thousand two hundred ten (3,956,210) dollars, or so much thereof as may be necessary, to be used to supplement the funds already appropriated by the general assembly to be distributed to various state departments to fund increases in compensation and related fringe benefits for designated state employees.

Sec. 9. There is appropriated from the general fund of the state to a special fund, established in the office of the state comptroller, set aside to pay Federal Insurance Contribution Act taxes resulting from an increase in the tax for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of eight hundred thousand (800,000) dollars, or so much thereof as may be necessary, to be distributed to various state departments to be used to fund any increase in the state's share of the taxes.

Sec. 10. There is appropriated from the general fund of the state for the fiscal period beginning July 1, 1978 to the Iowa beer and liquor control department the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the remodeling and conversion of twenty-four existing counter type stores to self-service stores..... \$ 237,048

2. For the purchase of cash registers..... \$ 193,000

3. For the purchase of lift trucks..... \$ 105,000

Unencumbered or unobligated moneys remaining on June thirtieth following completion of the projects for which the funds are appropriated by this section, shall revert to the

general fund of the state on the following September thirtieth.

Sec. 11. The appropriations made by section eight (8) of this Act to the salary adjustment fund, section nine (9) of this Act to a special Federal Insurance Contribution Act tax fund and the appropriation for the industrial commissioner in subsection eight (8) of section seven (7) of this Act shall not be subject to transfer to any other department, institution or agency nor shall any moneys be subject to transfer to such funds from any other department, institution or agency as provided in section eight point thirty-nine (8.39) of the Code.

The appropriation for the comptroller's data processing division in paragraph b of subsection six (6) of section seven (7) of this Act shall not be subject to transfer to any other department, institution, agency or other division of the same agency as provided in section eight point thirty-nine (8.39) of the Code.

Sec. 12. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

Sec. 13. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Red Oak Express, a newspaper published in Red Oak, Iowa, and in The Sioux County Index-Reporter, a newspaper published in Hull, Iowa.

Approved June 5, 1978

I hereby certify that the foregoing Act, House File 2189, was published in The Red Oak Express, Red Oak, Iowa on June 12, 1978, and in The Sioux County Index-Report, Hull, Iowa on June 15, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1017

SCIENCE ACADEMY, ARTS COUNCIL, CAPITOL PLANNING, HISTORICAL, LIBRARY, PLANNING AND PROGRAMMING, MERIT EMPLOYMENT, LABOR BUREAU, LIEUTENANT GOVERNOR, EXECUTIVE COUNCIL, STATE GOVERNMENTS, UNIFORM LAWS, FISCAL BUREAU, SERVICE BUREAU, CITIZENS AIDE AND PIONEER LAWMAKERS

S. F. 2127

AN ACT making appropriations to various executive and legislative departments and other councils and commissions.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the following named agencies, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

	1978-1979
	<u>Fiscal Year</u>
1. IOWA ACADEMY OF SCIENCE	
For support of publications	\$ 4,500
2. IOWA STATE ARTS COUNCIL	
a. For salaries, support, maintenance and miscellaneous purposes including funds to match federal grants	\$ 220,000
b. For the purpose of extending the council's arts and older Americans program to county care facilities which agree to establish programs in the arts for residents of such facilities. Program activities shall include, but are not limited to, painting, music, theatre, dance, sculpture, architecture, or allied arts and crafts. The Iowa state arts council shall assist the administrators of county care facilities in establishing arts activities in cooperation with the faculty or students of departments directly related to one of the creative arts of public or private colleges or universities in this	

state, and professional artists residing within this state. A grant to a county care facility under this paragraph shall not exceed one thousand (1,000) dollars

\$ 10,000

3. CAPITOL PLANNING COMMISSION

For per diem of forty dollars per day and expenses of the members in carrying out their duties under chapter eighteen A (18A) of the Code

\$ 3,500

4. IOWA STATE HISTORICAL DEPARTMENT

a. For the division of the state historical society for salaries, support, maintenance and miscellaneous purposes

\$ 359,800

b. For the division of historic preservation for salaries, support, maintenance and miscellaneous purposes

\$ 128,000

c.

(1) For the division of historic museum and archives for salaries, support, maintenance and miscellaneous purposes

\$ 351,573

(2) For the establishment of the position of state archivist and the payment of salary for such position

\$ 20,000

d. For the state historical board for per diem and expenses

\$ 18,000

5. CAPITOL PLANNING COMMISSION

For the purpose of facilitating the development of a new state historical building and an alternative plan for the utilization of the present historical building

\$ 25,000

It is the intent of the general assembly in appropriating funds in this subsection that the funds be used to select a

site and develop an architectural plan for a new historical building. It is the intent of the general assembly that a determination be made as to the availability of federal funds which could be used in the renovation of the present historical building for an alternative use.

6. IOWA LIBRARY DEPARTMENT

a. For the law library division for salaries, support, maintenance and miscellaneous purposes \$ 182,096

b. For the medical library division for salaries, support, maintenance and miscellaneous purposes \$ 99,940

c. For the state library for salaries, support, maintenance and miscellaneous purposes \$ 310,167

d. Citizens library conference \$ 5,000

e. For the regional library system for state aid \$ 763,907

f. To provide a cost-of-living increase of five percent of salaries as they exist on June 22, 1978 for regional library staff for the fiscal year beginning July 1, 1978 and ending June 30, 1979 \$ 15,243

7. OFFICE FOR PLANNING AND PROGRAMMING

For salaries, support, maintenance and miscellaneous purposes \$ 703,532

8. IOWA MERIT EMPLOYMENT DEPARTMENT

a. For the general office for salaries, support, maintenance and miscellaneous purposes \$ 880,207

b. For the conversion, design, testing, installation, and

implementation of a data processing system \$ 132,248

c. Notwithstanding section eight point thirty-three (8.33) of the Code, unencumbered or unobligated funds in the amount of fifty thousand (50,000) dollars appropriated for the implementation of a data processing system appropriated by subsection seven (7) of section one (1) of the Acts of the Sixty-seventh General Assembly, 1977 Session, chapter four (4) for use by the Iowa merit employment department remaining on June 30, 1978 shall not revert to the general fund of the state, but shall carry forward for use during fiscal year 1978-79 and shall revert in the same manner as if appropriated for such fiscal year.

9. BUREAU OF LABOR

For salaries, support, maintenance and miscellaneous purposes \$ 967,585

It is the intent of the general assembly in appropriating funds under this subsection that there be added salary, support, and maintenance for one additional elevator inspector under the elevator inspection program. Funds included in this appropriation may be expended to match federal funds on a 90-10 basis and includes ten new positions for on site consultation services under the occupational safety and health program. These additional positions expire if federal funds are not continued on a 90-10 basis.

10. LIEUTENANT GOVERNOR

For the lieutenant governor's compensation and expenses as provided in subsection two (2) of section two point ten (2.10) of the Code including service as a member of the legislative council and for per diem and expenses incurred while performing duties of the lieutenant governor when the general assembly is not in session, including travel, postage and staff assistance	\$ 75,485
11. EXECUTIVE COUNCIL	
For salaries, support, maintenance and miscellaneous purposes	\$ 40,760
12. COUNCIL OF STATE GOVERNMENTS	
For the support of the membership assessment	\$ 34,780
13. NATIONAL CONFERENCE OF STATE LEGISLATURES	
For support of membership assessment	\$ 26,900
14. COMMISSION ON UNIFORM STATE LAWS	
For support of the commission and expenses of members	\$ 8,240
15. LEGISLATIVE FISCAL BUREAU	
For salaries, support, maintenance and miscellaneous purposes	\$ 260,657
16. LEGISLATIVE SERVICE BUREAU	
a. For salaries, support, maintenance and miscellaneous purposes	\$ 561,837
b. For drafting, research, and Code data processing programs and services	\$ 15,000
17. PIONEER LAWMAKERS	
\$	750
18. OFFICE OF CITIZENS AIDE	
For salaries, support, maintenance and miscellaneous purposes	\$ 159,684

Sec. 2. All federal grants to and the federal receipts of the agencies appropriated funds under this division are appropriated for the purposes set forth in such federal grants and receipts.

Approved June 5, 1978

CHAPTER 1018

SOCIAL SERVICES

S. F. 2163

AN ACT relating to the administration and financing of current programs under the jurisdiction of the department of social services.

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

Section 1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

DISTRICT ADMINISTRATION AND
CENTRAL ADMINISTRATION

1. For the administration of district, central and local offices including salaries and support \$ 17,300,000

2. It is the intent of the general assembly that the state fully fund the food stamp program and not charge back to the counties the fifty percent of administrative costs not covered by federal funds. However, counties shall continue to furnish and pay for the office space presently in use by personnel administering the food stamp program.

3. The provision of subsection nine (9) of section nineteen A point nine (19A.9) of the Code which restricts employment of intermittent employees to not more than a specified number of calendar days in any twelve-month period without examination, shall not apply during the period beginning on July 1, 1978 and ending June 30, 1979 for thirty-eight intermittent employees who are employed in field offices by

the department of social services. It is the intent of the general assembly to authorize the continued employment during the 1978-1979 fiscal year of persons employed to assist in meeting the current high demand for income maintenance and related services and to permit the department to avoid the cost of training new employees. Any such employee of the department of social services who has been employed and classified as an intermittent employee after August 1, 1975 for twelve consecutive months or more shall be eligible to receive the same fringe benefits for fiscal year 1978-1979 as any other person employed under the provisions of chapter nineteen A (19A) of the Code. It is further the intent of the general assembly that when a vacancy occurs in any permanent full-time position for which any intermittent employee whose employment is continued under this Act is qualified, that employee or those employees shall be given an opportunity to fill the vacant position as a permanent merit employee. Each such intermittent employee, upon being transferred to full-time merit employee status, shall be given credit for all benefits which that employee has accrued as an intermittent employee of the department.

Sec. 2. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter thirty-seven (37), section one (1), subsection three (3), is amended to read as follows:

3. Medicaid Management Information System (MMIS)

For development and implementation of medicaid management information

system \$ 140,000

Notwithstanding section eight point thirty-three (8.33) of the Code, unencumbered or unobligated funds appropriated by this subsection shall not revert to the general fund until June 30, 1979. The department of social services shall submit to the joint budget subcommittee on social services, during the 1979 Session of the general assembly, a written report on the status of the medicaid management information system.

Sec. 3. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter thirty-seven (37), section twenty-one (21), subsection two (2), is amended by adding the following new unnumbered paragraph:

Notwithstanding section eight point thirty-three (8.33) of the Code, unencumbered and unobligated funds appropriated by this subsection shall not revert to the general fund until

June 30, 1979. The department of social services shall submit to the joint budget subcommittee on social services, not later than January 20, 1979, a written report on the status of the second opinion project.

Sec. 4. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1978-1979
Fiscal Year

FAMILY AND CHILDREN SERVICES:

For the operation of the following institutions:

- 1. State juvenile home at Toledo, boys' training school at Eldora, and girls' training school at Mitchellville \$ 5,500,000
- 2. Iowa veterans home at Marshalltown \$ 8,200,000
- 3. Juveniles adjudicated delinquent shall not be placed at the state juvenile home at Toledo.

Sec. 5. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services for juvenile community-based corrections the sum of one hundred sixty thousand (160,000) dollars, or so much thereof as may be necessary.

1. The department of social services shall continue the program of project grants to communities which are developing community-based juvenile residential correctional programs. It shall work with local communities and the Iowa crime commission to provide incentives to make maximum use of available federal funds. Insofar as practical, the department shall provide technical assistance to local groups which intend to establish or improve community-based juvenile residential correctional programs.

2. Not more than twenty thousand dollars of the above amount may be used by the department of social services to develop, in coordination with the Iowa crime commission and its state juvenile justice advisory council, a state juvenile services plan.

3. The objective of the general assembly is to plan for and encourage the development of statewide community-based juvenile services which are controlled and supported primarily through local citizen involvement. To be successful, these services should be built upon the intimate involvement of the family, the school, the juvenile court, and the local community. Juvenile services are understood to include, among others, family counseling, emergency foster and shelter care, homemaker services, evaluation, short and long term residential care, crisis intervention, substance abuse counseling, delinquency prevention, and coordination with education, vocational and court services programs.

Sec. 6.

1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services the following amounts, or so much thereof as may be necessary, to be used for adult correctional services as designated:

	1978-1979
	<u>Fiscal Year</u>
a. Correctional institutions	\$18,725,000
(Fort Madison, Anamosa, Rockwell City, Oakdale, Luster Heights and Mount Pleasant)	
b. Riverview release center at Newton and inmate employment program	\$ 1,800,000
c. Community-based correction	\$ 8,175,000
d. Parole services	\$ 900,000
e. For a legal assistance program for inmates of the Iowa state penitentiary, the Iowa state reformatory, and the Iowa women's reformatory	\$ 25,000

It is the intent of the general assembly that a legal assistance program be established for inmates of the institutions identified in this paragraph. The purpose of the program shall be to provide civil legal assistance to inmates in matters of child custody, bankruptcy and dissolution of marriage. The office of the citizens' aide ombudsman shall maintain a list of attorneys willing to participate in this program and shall be responsible for the appointment of attorneys under the program funded by this subsection.

Participating attorneys shall receive no more than twenty-five dollars per hour for their services under this program.

2. It is the intent of the general assembly that funds included within paragraph a of subsection one (1) of this section shall be used for the following purposes:

a. Establishment of four additional correctional officer positions at the Iowa women's reformatory, in order to allow correctional officers at that institution to be assigned eight-hour shifts.

b. Establishment of two additional psychiatric nursing positions at the security medical facility, in order to provide nursing coverage on the eleven o'clock p.m. to seven o'clock a.m. shift seven days a week, and to make available up to six beds for women inmates if needed.

Sec. 7. There is appropriated from the general fund of the state to the department of social services for the fiscal period commencing July 1, 1978 the sum of nine hundred fifty-five thousand (955,000) dollars, or so much thereof as may be necessary, for the purpose of unitizing the Iowa state penitentiary and the Iowa state reformatory, and constructing a medium security fence, including a tower, around the medium security dormitory at the Iowa state penitentiary. Unobligated or unencumbered funds remaining on June 30, 1982 from funds appropriated by this section shall revert to the general fund of the state on September 30, 1982.

Sec. 8. There is appropriated from the general fund of the state to the department of social services for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of ten thousand (10,000) dollars, or so much thereof as is necessary, to revitalize the furlough programs at the women's reformatory, the Iowa state reformatory and the Iowa state penitentiary.

Sec. 9. Section nine hundred one point seven (901.7), Code 1977 Supplement, is amended to read as follows:
901.7 COMMITMENT TO CUSTODY.

In imposing a sentence of confinement for more than one year, the court shall commit the defendant to the custody of the director of the division of adult corrections. Upon entry of judgment and sentence, the clerk of the district court immediately shall notify the director of such commitment. The court shall make such order as is appropriate for the temporary custody of the defendant pending the defendant's transfer to the custody of the director. The court shall

order the county where a person was convicted to pay the cost of temporarily confining the person and of transporting the person to the state institution where he or she is to be confined in execution of the judgment.

Sec. 10. Chapter two hundred forty-seven A (247A), Code 1977, is amended by adding the following new section:

NEW SECTION. ALLEGED WORK RELEASE VIOLATORS--REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT. The division of adult corrections shall negotiate a reimbursement rate with each county for the temporary confinement of alleged violators of work release conditions who are in the custody of the director of the division of adult corrections. The amount to be reimbursed shall be determined by multiplying the number of days so confined by the average daily cost of confining a person in the county facility as negotiated with the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the division of adult corrections. The money shall be deposited in the county general fund to be credited to the jail account.

Sec. 11. Chapter nine hundred six (906), Code 1977 Supplement, is amended by adding the following new section:

NEW SECTION. ALLEGED PAROLE VIOLATORS--REIMBURSEMENT TO COUNTIES FOR TEMPORARY CONFINEMENT. The division of adult corrections shall reimburse a county for the temporary confinement of alleged parole violators. The amount to be reimbursed shall be determined by multiplying the number of days so confined by the average daily cost of confining a person in the county facility as negotiated by the department. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director of the division of adult corrections. The money shall be deposited in the county general fund to be credited to the jail account.

Sec. 12. There is appropriated from the general fund of the state to the department of social services for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of forty thousand (40,000) dollars or so much thereof as is necessary, to be used for the purpose of reimbursing counties for temporary confinement of work release and parole violators, as provided by sections nine (9), ten (10) and eleven (11) of this Act.

Sec. 13. There is appropriated from the general fund of the state to the department of social services for the fiscal year commencing July 1, 1978 the sum of two million ninety-one thousand four hundred forty (2,091,440) dollars or so

much thereof as is necessary, to be used for capital improvement projects deemed necessary by the department for institutions under its jurisdiction or for maintenance of such institutions. The department shall include the construction of a dining room addition at the women's reformatory, demolition of the condemned McCall Hall at the juvenile home, roof replacement for two buildings at the mental health institute at Mount Pleasant, repair of a boiler, pumps and controls at the mental health institute at Clarinda, replacement of a water pump at the mental health institute at Cherokee, and an emergency and contingency fund of fifty thousand dollars in its capital appropriation. The department shall consult with the Iowa national guard about a cooperative effort in the demolition of McCall Hall at the juvenile home prior to expending funds for that purpose. Unobligated or unencumbered funds remaining on June 30, 1982 from funds appropriated by this section shall revert to the general fund of the state on September 30, 1982.

Sec. 14. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services, for the mental health institutes at Cherokee, Clarinda, Independence and Mount Pleasant the sum of twenty-two million five hundred ten thousand (22,510,000) dollars, or so much thereof as may be necessary.

1. The state mental health institutes' daily per diem as determined pursuant to section two hundred thirty point twenty (230.20) of the Code shall be billed at eighty percent for the fiscal year.

2. It is the intent of the general assembly that a mental health institute shall not accept physical custody of children alleged to be children in need of assistance on guest status or otherwise, for more than thirty days. It is also the intent of the general assembly that children found to be children in need of assistance shall not be placed in a mental health institute on the basis of that adjudication. The juvenile court may, however, order a commitment to a mental health institute or other appropriate secure facility for the purposes of treatment of a mental or emotional condition, but only after making findings pursuant to the standards set out for involuntary commitment in chapter two hundred twenty-nine (229) of the Code.

3. It is the intent of the general assembly that the division of mental health resources of the department of

social services shall seek alternative funding sources for the chaplain intern program at the mental health institutes at Cherokee and Independence, with the objective of continuing these programs without use of state funds.

4. It is the intent of the general assembly that the superintendents of the mental health institutes at Cherokee and Independence, in discharging the duties imposed on them by section two hundred thirty point twenty (230.20) of the Code, shall consider the costs of the psychiatric residency and chaplain intern programs maintained at those institutes as costs not to be included in the expenditures of those institutes for the purpose of establishing the institutes' respective daily charges to patients, the same as the costs enumerated in section two hundred thirty point twenty (230.20), subsection one (1), paragraphs a, b and c of the Code. It is the objective of the general assembly, in expressing this intent, that the commissioner of social services work to establish more uniform daily charges at the four mental health institutes.

Sec. 15. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services, for the state hospital-schools at Glenwood and at Woodward the sum of twenty million four hundred twenty-eight thousand (20,428,000) dollars, or so much thereof as may be necessary. It is the intent of the general assembly that all funds received from client participation shall be deposited in the general fund of the state.

1. The state hospital-schools' per-patient-per-day cost as determined pursuant to section two hundred twenty-two point seventy-three (222.73) of the Code shall be billed at eighty percent for the fiscal year, except as otherwise provided by subsection two (2) of this section.

2. If more than twenty percent of the cost of a patient's care is initially paid from any source other than state-appropriated funds, the amount so paid shall be subtracted from the per-patient-per-day cost of that patient's care computed pursuant to section two hundred twenty-two point seventy-three (222.73) of the Code and the patient's county of legal settlement shall be billed for the full balance of the cost so computed.

Sec. 16. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

	1978-1979
	<u>Fiscal Year</u>
SPECIAL PROGRAMS DIVISION:	
1. For aid to the blind	\$ 15,000
2. For aid to dependent children	\$ 47,150,000
3. For aid to Indians residing on a settlement	\$ 40,000
4. For medical assistance, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary. Medically necessary abortions are those performed when:	
a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman; or	
b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness; or	
c. The pregnancy is the result of a rape which is reported to a law enforcement agency or public or private health agency within sixty days of the incident, or the result of incest which is reported in the first two trimesters of pregnancy to a law enforcement agency or the department of social services;	
d. Any spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled	\$ 79,500,000
5. For contractual services-medical carrier	\$ 1,140,000
6. For foster care and subsidized adoptions	\$ 8,400,000

It is the intent of the general assembly that funds appropriated by this section may be used to fund services to a child in his or her own home when such service may be an alternative to placement in a foster care home.

It is the intent of the general assembly that the payment for subsidized adoptions shall be raised to a level comparable

to the current foster care rate.

It is the intent of the general assembly that the department of social services shall determine appropriate cost-related rate structures for the foster care and subsidized adoption programs. The department of social services shall report to the joint budget subcommittee on social services regarding that rate structure not later than January 20, 1979.

The department of social services shall not adopt or enforce any rule or policy prohibiting limited corporal punishment of foster children by foster parents licensed by the department. This paragraph shall not prevent promulgation of rules prohibiting malicious, willful and wanton conduct by a foster parent which causes injury or damage to a foster child, or exposes the foster child to danger of such injury or damage.

- 7. For work and training programs \$ 420,000
- 8. For adult and children services and homemaker services \$ 1,500,000
- 9. For state supplementary assistance, including state supplementary assistance for the blind \$ 5,300,000

The department of social services shall explore the possibility of obtaining federal financial participation for residential care facilities, and shall report its findings to the general assembly not later than January 20, 1979.

- 10. For the governor's youth opportunity program \$ 750,000
- 11. For child support recoveries \$ 396,000
- 12. Assistance to child care centers for nonprofit centers only \$ 250,000

Real property shall not be purchased with funds appropriated by this subsection.

- 13. State supplementation to Title twenty (XX) \$ 750,000

a. It is the intent of the general assembly that the department of social services shall submit a budget for the fiscal year 1979-1980 as outlined in the department's management control report, which is developed by organizational structure or areas of responsibility, and accordingly indicates projected program activities, personnel status and budgeted expenditures, and then compared to actual outputs on a monthly basis for purposes of analysis and accountability. This report shall be distributed to members of the general assembly for their review on a periodic basis or upon request to the department. ***

b. It is the intent of the general assembly that for each discrete direct service program or allocation under Title twenty (XX), the department of social services shall spend within fifteen percent of planned amounts of funds. If by March 1, 1979 it becomes apparent that actual direct service expenditures will differ from planned direct service expenditures by greater than fifteen percent in any individual service program, or in total, the department of social services shall, by April 1, 1979 notify the office of the comptroller, the legislative fiscal bureau, and the state Title twenty (XX) advisory committee. Notification shall specify the projected expenditure which varies by more than fifteen percent from the planned expenditure for that service area. The department of social services shall prepare a report on direct service expenditures not within the fifteen percent limit for presentation to the joint budget subcommittee on social services not later than February 1, 1980.

c. It is the intent of the general assembly that the substate allocations formula for local purchase funds under Title twenty (XX) be based upon the formula approved by the state Title twenty (XX) advisory committee as follows:

(1) Fifty percent of the allocation formula for local purchase shall be based on the distribution of persons below the U.S. census poverty level as defined in the most recent census; and

(2) Fifty percent of the allocation formula for local purchase shall be based on the previous years local purchase allocation;

(3) All new moneys, or funds in excess of the current federal ceiling, shall be allocated one hundred percent on

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the basis of the percentage of people below the poverty level according to the most recent census.

(4) Reallocation or redistribution of local purchase funds shall be based on service utilization.

e. It is the intent of the general assembly that the department of social services shall by January 1, 1980 provide the following information on the Title twenty (XX) program to the joint budget subcommittee on social services:

(1) Unit cost data for Title twenty (XX) direct services according to social services district and individual service area.

(2) A comparison, where appropriate, of unit costs for direct services and unit costs for purchased services.

(3) Administrative, program support, and direct program costs for all methods of service delivery under Title twenty (XX).

(4) A comparison of planned and actual expenditures for all methods of service delivery under Title twenty (XX).

(5) A comparison of planned and actual services provided under Title twenty (XX) in each social services district and for each social services program.

(6) A comparison of planned and actual services provided under Title twenty (XX) broken down by eligible client categories.

f. It is the intent of the general assembly that the department of social services expand the citizen participation process under Title twenty (XX) to include:

(1) Citizen input into the determination of appropriate statewide funding levels and allocations for direct services under Title twenty (XX).

(2) Citizen input into the appropriate disbursement and use of federal funds earmarked for special day care.

(3) Citizen input into the actual use of direct services funds under Title twenty (XX) including data on actual expenditures, recipients, and services provided.

The department of social services shall report to the joint budget subcommittee on social services by January 1, 1979 relative to the efforts made to expand the scope of the citizen participation process.

g. It is the intent of the general assembly that mini-Title twenty (XX) funds be disbursed expeditiously to district local purchase systems. Planning for the allocation of mini-Title twenty (XX) funds shall assure that these funds are actually received and used by district Title twenty (XX)

programs rather than reverted to the state general fund. It is also the intent of the general assembly that these funds be used primarily for purchase of service for individuals to meet the state's goal of deinstitutionalization, and avoidance of institutionalization wherever effective and possible.

Sec. 17.

1. It is the intent of the general assembly, in consideration of the Iowa state university of science and technology aid to families with dependent children study, that the schedule of living costs and the payments for persons on the aid to families with dependent children program shall be set as follows:

- | | |
|--------------------------|-----------------|
| a. 1 person | \$145 per month |
| b. 2 person family | \$275 per month |
| c. 3 person family | \$340 per month |
| d. 4 person family | \$395 per month |
| e. 5 person family | \$438 per month |
| f. 6 person family | \$487 per month |
| g. Each additional child | \$ 48 per month |

h. If the amount of assistance determined by the above schedule would be less than a current recipient's payment level determined under the schedule in effect for the 1977-78 fiscal year, the current payment level shall be maintained.

2. The special needs program of the aid to families with dependent children program shall be continued.

3. It is the intent of the general assembly to fully fund the addition to the aid to families with dependent children program as it applies to dependent children through the age of twenty years.

4. It is the intent of the general assembly that the department of social services explore the feasibility of contracting with a third party to provide health insurance coverage for welfare recipients, as authorized by section two hundred forty-nine A point four (249A.4), subsection four (4) of the Code. If it is determined that the cost of such health insurance coverage would be no greater than the current cost the department shall contract for health insurance coverage for welfare recipients. The department shall report to the general assembly not later than January 20, 1979 on its study of the feasibility of instituting third-party payments under the medical assistance program.

Sec. 18. The department of social services shall encourage

voluntary participation of families in paying for a portion of the care delivered to a relative who is a resident in an intermediate care facility. Facility administrators and appropriate department personnel, both state and county, shall be advised as to the proper method of implementing family participation.

Sec. 19.

1. It is the intent of the general assembly that the department of social services shall increase the maximum reimbursement for intermediate care facility services under medical assistance from nineteen dollars fifty cents per day to a payment level fixed at the seventy-fourth percentile of all intermediate care facilities under the medical assistance program ranked on the basis of the reimbursable cost figures certified by the department prior to July 1, 1978 for the first six months of the fiscal year and the cost figures certified prior to January 1, 1979 for the last six months of the fiscal year with the provision that the percentile may be temporarily lowered the last six months of the year within the reasonable limits approved in the plan, if necessary to reduce the average maximum payment for the entire year to twenty-one dollars per day.

2. It is the intent of the general assembly that payment for reserve bed days under the medical assistance program shall be made at eighty percent of the actual reimbursement rate for those beds.

3. It is the intent of the general assembly that medical assistance shall be made available to any person who is an inpatient of a hospital, skilled nursing facility or intermediate care facility; who is eligible for supplemental security income in all respects except income; and whose income does not exceed five hundred thirty-three dollars per month.

4. It is the intent of the general assembly that the department of social services shall review and analyze all of the costs and benefits that might accrue to the state of Iowa and the recipients or potential recipients of medical assistance by implementation of a rule to disallow certification of eligibility of a recipient who has transferred property, a resource or income, contrary to the provisions of section two hundred forty-nine A point five (249A.5) of the Code, and where such property, resource or income, or the identifiable proceeds thereof, is currently available

to the recipient. The department shall make its study and the recommendations based thereon available to the governor and to the general assembly as soon as it is completed.

5. It is the intent of the general assembly that the department of social services shall increase the maximum reimbursement for residential care facility services from eleven dollars per day to twelve dollars fifty cents per day.

6. It is the intent of the general assembly that, in addition to funds appropriated for medical assistance in this Act, the state's share of federal welfare fiscal relief money to be received by Iowa be utilized in the medical assistance program.

7. It is the intent of the general assembly that funds appropriated for medical assistance shall not be used to pay for radiology services provided by a computerized axial tomographic scanner placed in operation in the state of Iowa subsequent to July 1, 1977 unless said computerized axial tomographic scanner has been approved by the state health facilities council of the state department of health.

8. It is the intent of the general assembly that the department of social services develop a method for annually reviewing the current fee schedule for all fixed fee providers under the medical assistance program.

9. It is the intent of the general assembly that, in addition to the funds appropriated by this Act for aid to families with dependent children, the state's share of federal antirecession fiscal assistance funds to be received under Title two (II) of the United States public works employment Act of 1976 be utilized for the aid to families with dependent children program.

Sec. 20. It is the intent of the general assembly that the department of social services shall promulgate rules pursuant to chapter seventeen A (17A) of the Code so that the noninstitutionalized spouse's support of persons receiving medical assistance shall be based on a case-by-case factual determination of the amount of money available for such support.

Sec. 21. Unless otherwise provided, all institutional receipts of the department of social services shall be deposited in the general fund except rentals charged to employees or others for room, apartment, or house and meals, which shall be available to the institutions, and except for receipts from farm products which shall be used for necessary farm expenses and repair. A full report of such receipts

retained for institutional use shall be delivered to the legislative fiscal bureau at the end of the fiscal year.

Sec. 22. Each hospital-school shall, upon receipt of any payment made under chapter two hundred forty-nine A (249A) of the Code for the care of any patient, segregate an amount equal to that portion of the payment which is required by law to be made from nonfederal funds. The money segregated shall be deposited in the medical assistance fund of the department of social services. It is the intent of the general assembly that charges assessed to the county will be credited with one hundred percent of client participation for eligible Title nineteen (XIX) medical assistance patients at the hospital schools, in the calculation of per diem rates.

Sec. 23. It is the intent of the general assembly that if the legislation increasing funding for social services now pending before Congress is passed, and if the Iowa child abuse program is in compliance with federal law, then funds appropriated to the department of social services may be used to match federal funds for child protective services to neglected and physically and sexually abused children, in an amount equal to the amount required to fund the state match for federal funds available to the state for that purpose.

Sec. 24. It is the intent of the general assembly that sixty thousand (60,000) dollars of the appropriation for adult and children services shall be used to fund projects for displaced homemakers. A displaced homemaker is any person who has been primarily a homemaker for at least ten years, has worked for his or her family in the family home, is not gainfully employed, has had or would have difficulty finding employment, has depended on the income of a family member and has lost that income in whole or in part as a result of separation, divorce or the death or disability of that family member, or has depended on public assistance as the parent of dependent children and is no longer eligible for such assistance. The funds referred to in this section shall not be used for tuition.

Sec. 25.

1. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the department of social services the sum of sixty thousand (60,000) dollars, or so much thereof as may be necessary, to be used to fund at least one pilot program to provide emergency shelter services and support services to women who are victims of domestic abuse. It is the intent

of this subsection that the commissioner of social services shall consult persons knowledgeable in the fields of health, law enforcement, social services and the law with regard to establishment or selection of pilot programs to be funded under this subsection.

2. For the purposes of this section:

a. "Domestic abuse" means committing assault as defined in section seven hundred eight point one (708.1) of the Code 1977 Supplement under either of the following circumstances:

- (1) The assault is between family or household members who resided together at the time of the assault; or
- (2) The assault is between separated spouses not residing together at the time of the assault.

b. "Emergency shelter services" include but are not limited to secure crisis shelters or housing for victims of domestic abuse.

c. "Family or household members" means spouses, persons cohabiting, parents, or other persons related by consanguinity or affinity, except children under eighteen.

d. "Support services" include but are not limited to legal services, counseling services, transportation services, child care services, and twenty-four hour information and referral services.

3. General assistance payments may be made to individuals receiving aid to families with dependent children who are residing in a facility which provides shelter services to victims of domestic abuse.

Sec. 26. Notwithstanding the maximum amounts to which sections two hundred thirty-nine point nine (239.9) and two hundred forty-nine point nine (249.9) of the Code limit payment by the department of social services toward the cost of funerals for persons receiving public assistance under chapters two hundred thirty-nine (239) and two hundred forty-nine (249) of the Code, the department is authorized to pay not more than four hundred dollars toward the cost of a funeral for any such public assistance recipient provided that:

1. The total cost of the person's funeral does not exceed one thousand dollars;

2. The decedent does not leave an estate which may be probated, with sufficient proceeds to allow a funeral claim of at least one thousand dollars; and

3. Any payment which is due the decedent's estate or beneficiary by reason of the liability of any life insurance

or death or funeral benefit company, association or society, or in the form of United States social security, railroad retirement, or veterans' benefits, upon the death of the decedent shall be deducted from the department's liability under this section.

The provisions of sections two hundred thirty-nine point nine (239.9) and two hundred forty-nine point nine (249.9) of the Code shall be of no force or effect during the fiscal year beginning July 1, 1978 and ending June 30, 1979.

Sec. 27. All federal grants to and the federal receipts of the department of social services are appropriated for the purposes set forth in such federal grants or receipts except the veterans per diem payable for veterans at the veterans home shall be deposited in the general fund.

Sec. 28. No funds appropriated by any provision of this Act, except sections seven (7) and thirteen (13), shall be used for capital improvements.

Sec. 29. Notwithstanding the provisions of section eight point thirty-nine (8.39) of the Code, none of the funds appropriated by this Act shall be transferred to or used by any agency other than the department of social services.

Sec. 30. NEW SECTION. Foster parents licensed by the department of social services stand in the same relationship to their minor foster children, for purposes of tort actions by or on behalf of a foster child against that child's foster parents, as do natural parents and their minor children who reside at home. This section shall not apply to a foster parent whose malicious, willful and wanton conduct causes injury or damage to a foster child, or exposes the foster child to a danger prohibited by either the rules or regulations of the department or of the placement agency.

Approved June 22, 1978 except the item designated as subparagraph "a" of Subsection 13 of Section 16 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit to you Senate File 2163, an act relating to the administration and financing of current programs under the jurisdiction of the Department of Social Services.

Senate File 2163 is approved June 22, 1978, with the following exception which I hereby disapprove.

I am unable to approve that item of the bill designated as subparagraph "a" of Subsection 13 of Section 16 which reads as follows:

- a. It is the intent of the general assembly that the department of social services shall submit a budget for the fiscal year 1979-1980 as outlined in the department's management control report, which is developed by organizational structure or areas of responsibility, and accordingly indicates projected program activities, personnel status and budgeted expenditures, and then compared to actual outputs on a monthly basis for purposes of analysis and accountability. This report shall be distributed to members of the general assembly for their review on a periodic basis or upon request to the department.

I am pleased to discover that the new control procedures instituted at the Department of Social Services have, in fact, captured both the interest and confidence of the legislature. Documents such as the "Management Control Report" are examples of the application of innovative and proven management techniques to a difficult to manage area...the delivery of human services to our needy. That report has been made available to the legislature, even as it was being developed. While the legislature's effort in subparagraph "a" of Subsection 13 of Section 16 of Senate File 2163 is clearly an attempt to expand on a useful tool, it is subject to varying interpretations in its awkward phrasing. A budget for 1979-1980, as called for in this bill, even for Social Services, cannot be prepared until an aggregate budget is prepared by the Executive Branch. Preparing one at this time would be premature and inappropriate.

There is another problem--that of a biennial budget. Subparagraph "a" is unclear as to when this special budget shall be submitted by the Department of Social Services. In fact, it cannot be finalized until determined by the General Assembly.

Long-standing state law has provided that departments submit biennial budget requests to the Governor, who in turn reviews them and submits his biennial budget recommendations to the General Assembly. This is a most important aspect for the Governor in his responsibility to supervise and coordinate the fiscal matters of state departments.

This administration has and will continue to encourage departments to do careful planning when comparing their expenditures with their achievement of goals. That information has and will continue to be available to our legislators. We invite the General Assembly's interest and support of sound management practices such as those referred to in subparagraph "a", and we are eager to share our working tools with them.

Accordingly, Chapter 8 of the Code of Iowa establishes an executive-initiated budget which should not be circumvented through somewhat unclear requests. If this provision were allowed to stand, we would experience a fragmented approach to the state budget especially when applied to a single department. Requiring, as this would, the expensive process of preparing two separate budgets, without correlation to the procedure followed for other departments, could be substantially disruptive.

For the above reasons, I hereby disapprove the aforementioned item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 2163 are hereby approved as of this date.

Sincerely,


Robert D. Ray
Governor

CHAPTER 1019

TRANSPORTATION, PUBLIC SAFETY AND PUBLIC DEFENSE

H. F. 2290

AN ACT making appropriations to and relating to the financing of agencies whose responsibilities relate to transportation, public safety, and public defense.

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

Section 1. There is appropriated from the general fund of the state to the Iowa crime commission for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1978-1979

Fiscal Year

IOWA CRIME COMMISSION

1. For the purpose of matching federal funds available to the Iowa crime commission for

1978-1979
Fiscal Year

programs other than area planning programs through the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the United States Congress, for salaries, support, maintenance and miscellaneous purposes \$ 46,360

2. For the purpose of matching federal funds available for area planning purposes to the Iowa crime commission through the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the United States Congress, for salaries, support, maintenance and miscellaneous purposes \$ 24,560

3. For the purpose of matching federal funds available to the Iowa crime commission through the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the United States Congress \$ 116,340

4. For the purpose of matching federal funds available to the Iowa crime commission through the Juvenile Justice and Delinquency Prevention Act of 1974 as amended by the United States Congress for salaries, support, maintenance and miscellaneous purposes \$ 3,520

Sec. 2.

1. The funds appropriated by subsection three (3) of section one (1) of this Act constitute a portion of the federal statutory requirement to provide in the aggregate not less than one-half of the minimum required nonfederal funding for projects conducted by units of general local government or combinations of such units for the development and implementation of programs and projects for the improvement of law enforcement.

2. Any allocation of funds from funds appropriated by subsection three (3) of section one (1) of this Act shall be approved by the governor.

3. All unencumbered or unobligated balances of funds appropriated by subsection three (3) of section one (1) of this Act shall on September 30, 1982 revert to the general fund of this state.

Sec. 3. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following amounts, or so much thereof as is necessary, for the purposes designated:

	1978-1979
	<u>Fiscal Year</u>
1. IOWA LAW ENFORCEMENT ACADEMY	
For salaries, support, maintenance and miscellaneous purposes	\$ 488,000
2. DEPARTMENT OF PUBLIC DEFENSE	
a. Military division	
For salaries except salaries provided for in paragraph b of this subsection, support, maintenance, and miscellaneous purposes	\$ 1,662,000
b. For salaries of the adjutant general and members of the adjutant general's staff who are on full-time active state service, and for their support and maintenance	\$ 173,000
3. OFFICE OF DISASTER SERVICES	
For salaries, support, maintenance and miscellaneous purposes	\$ 102,000

Sec. 4. There is appropriated from the general fund of the state for the fiscal period beginning July 1, 1978, to the department of public defense for the purposes indicated, the following amounts, or so much thereof as are necessary:

1. For repair, replacement, alteration, equipment, and rehabilitation of national guard armory facilities throughout the state, including the maintenance and repair of equipment required for use of such facilities	\$ 75,000
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2. For repair, replacement, alteration, equipment, and rehabilitation of buildings, grounds, roads and facilities located within the Camp Dodge military reservation \$ 25,000

3. For the construction of a national guard armory at Dubuque, the location of which shall be determined by the executive council \$ 231,000

4. Unobligated or unencumbered funds remaining on June 30, 1982, from funds appropriated by this section shall revert to the general fund on September 30, 1982.

Sec. 5. It is the intent of the general assembly that upon completion of the construction of the new national guard armory at Dubuque, the executive council shall convey any interest held by the state in Lot 1 of Lot 2 of Lot 3 of Randalls' Subdivision in the city of Dubuque, Iowa to the city of Dubuque, Iowa.

Sec. 6. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following amounts, or so much thereof as is necessary, to be used for funding the following functions and programs for the purposes designated:

1978-1979

Fiscal Year

DEPARTMENT OF PUBLIC SAFETY

1. ADMINISTRATIVE FUNCTION

For salaries, support, maintenance and miscellaneous purposes of the department, criminal justice information system, and radio communications \$ 3,579,700

2. INSPECTION AND SECURITY FUNCTION

For salaries, support, maintenance and miscellaneous purposes of fire marshal's inspections, arson investigators including the state's

contribution to the peace officers' retirement, accident, and disability system provided in chapter ninety-seven A (97A) of the Code in the amount of sixteen percent of the salaries for which the funds are appropriated, and capitol security divisions \$ 805,000

3. INVESTIGATION FUNCTION

For salaries, support, maintenance, and miscellaneous purposes of the divisions of criminal investigation and bureau of identification, drug law enforcement, and beer and liquor law enforcement, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter ninety-seven A (97A) of the Code in the amount of sixteen percent of the salaries for which the funds are appropriated \$ 2,688,000

4. DIVISION OF HIGHWAY SAFETY AND UNIFORMED FORCE

For salaries, support, maintenance and miscellaneous purposes including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter ninety-seven A (97A) of the Code in the amount of sixteen percent of the salaries for which the funds are appropriated \$ 10,898,000

5. In addition to the complement of not to exceed four hundred ten persons there shall be twenty persons who shall serve as members of the highway safety patrol for the period beginning July 1, 1975 and ending June 30, 1979. The twenty additional members of the highway safety patrol shall be totally funded through the use of federal funds.

6. It is the intent of the general assembly that prior to the expenditure of funds by the department for the purpose of organizing or providing continuous support of an internal

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affairs division within the department of public safety, the department shall adopt rules pursuant to chapter seventeen A (17A) of the Code providing for the method and procedures to be followed in an internal affairs investigation. ***

7. It is the intent of the general assembly that the department of public safety make a concerted effort, by efficiently coordinating the resources of the state fire marshal and the division of investigation, to apprehend persons who have committed the serious crime of arson. The department of public safety shall assure that the crime of arson will continue to receive a high degree of investigative priority.

Sec. 7. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1978-1979
Fiscal Year

DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance and miscellaneous purposes \$ 4,390,000

2. For public transit purposes to implement a state assistance plan \$ 1,950,000

Of the funds appropriated by this subsection, not more than sixty-five thousand dollars shall be used for development and implementation of a mass transit project for state employees. Such project shall subsidize the cost of mass transportation for state employees if the participating state employees agree to abstain from parking their motor vehicles on state property at their job site. In allocating funds appropriated by this subsection to implement a state assistance program, the department shall review each allocation to consider whether the allocation should be revised where a public transit has received funds for the development and implementation of a mass transit project for state employees.

Unencumbered or unobligated funds remaining on June 30, 1981 from funds appropriated by subsection two (2) of this section shall revert to the general fund on September 30, 1981.

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3. For deposit in the rail-road assistance fund for branch-line improvement \$ 1,700,000

4. For developing a program for future transportation uses of abandoned rail lines in selected locations throughout the state \$ 50,000

Sec. 8. Section three hundred eight point four (308.4), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. There is appropriated from the general fund of the state to the state department of transportation the sum of one hundred thousand (100,000) dollars for each fiscal year beginning July 1, 1978, and ending June 30, 1988. Said money is to be utilized for the acquisition and construction of highway-associated project components for the great river road. Each annual appropriation shall first be used to reimburse the great river road fund established in section three hundred twelve point two (312.2) of the Code, with remaining funds being available for a period of one fiscal year following the year of appropriation. The state department of transportation, in cooperation with the state conservation commission and the Mississippi river parkway commission, shall administer the provisions of this subsection and shall issue rules for such administration in accordance with chapter seventeen A (17A) of the Code. A report shall be submitted listing the expenditures for the previous year and cumulative expenditures of all funds appropriated by this section and the report shall be incorporated in the annual report required by section seventeen point nine (17.9) of the Code.

Sec. 9. Section three hundred twelve point two (312.2), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The treasurer of state shall establish a great river road fund and at the request of the state department of transportation, shall credit monthly before making the allotments provided for in this section, sufficient funds to cover the anticipated costs, as identified by the state department of transportation, for the acquisition and construction of eligible highway-associated project components. Reimbursement to this fund shall be made as necessary from the funds appropriated in section three hundred eight point four (308.4) of the Code. In no case shall the unreimbursed

allotment to the great river road fund exceed one million dollars less the cumulative sum as annually appropriated in section three hundred eight point four (308.4) of the Code. Reimbursed funds shall be reallocated in accordance with the provisions of section three hundred twelve point two (312.2) of the Code.

Sec. 10. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

	1978-1979
	<u>Fiscal Year</u>
DEPARTMENT OF TRANSPORTATION	
1. For salaries, support, maintenance and miscellaneous purposes	\$ 7,097,500
ADMINISTRATION OF MERIT SYSTEM	
2. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter nineteen A (19A) of the Code	\$ 10,000
UNEMPLOYMENT COMPENSATION COSTS	
3. Unemployment compensation	\$ 5,000
4. For improving grade crossing surfaces needing repair which grade crossings are repaired with funds from the highway-railroad grade crossing surface repair fund	\$ 290,000
5. For the purpose of matching available federal planning and construction funds to be used in the planning and construction of the Iowa segments of the great river road	\$ 250,000
6. For construction of the Hudson road improvement project on the campus of the university of northern Iowa as proposed by	

the state board of regents \$ 110,000

Sec. 11. There is appropriated from the road use tax fund to the state comptroller for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of twelve thousand five hundred (12,500) dollars, or so much thereof as is necessary, to be used for the purpose of paying workers' compensation claims under chapter eighty-five (85) of the Code on behalf of employees of the state department of transportation.

Sec. 12. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the following amounts, or so much thereof as may be necessary, to be used for the following purposes:

1978-1979
Fiscal Year

DEPARTMENT OF TRANSPORTATION

1. For salaries, support, maintenance and miscellaneous purposes \$ 86,117,500

EQUIPMENT

2. Additional equipment to be purchased to supplement present inventory. All acquisitions, when acquired, will become a part of the state department of transportation materials and equipment revolving fund \$ 200,000

VEHICLE REPLACEMENT

3. To be deposited in the state department of transportation materials and equipment revolving fund established by section three hundred seven A point seven (307A.7) of the Code for funding the increased replacement cost of vehicles \$ 400,000

MERIT EXPENSES

4. For the purpose of making payments to the Iowa merit employment department for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter nineteen A

(19A) of the Code	\$	200,000
UNEMPLOYMENT COMPENSATION COSTS		
5. Unemployment compensation	\$	95,000
6. For the construction of field facilities	\$	1,300,000
7. For the construction of a steam line interconnect to con- nect all power plants	\$	200,000

Sec. 13. All unencumbered or unobligated balances of funds remaining on June 30, 1982, from funds appropriated by subsections six (6) and seven (7) of section twelve (12) of this Act shall revert to the primary road fund on September 30, 1982.

Sec. 14. There is appropriated from the primary road fund to the state comptroller for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of two hundred thirty-seven thousand five hundred (237,500) dollars, or so much thereof as is necessary, for the purpose of paying workers' compensation claims under chapter eighty-five (85) of the Code on behalf of the employees of the state department of transportation.

Sec. 15. There is appropriated from the primary road fund to the department of transportation for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of one hundred thousand (100,000) dollars or so much thereof as necessary for the purpose of conducting a study into the effect of chemical road deicing programs. The study shall review the alternatives to using salt or other chemicals for road deicing purposes. The study shall assess the impact and estimate costs to the road, vehicles and the environment that result from the chemical road deicing programs. The department shall report the findings of the study to the general assembly prior to January 1, 1980, together with recommendations to minimize the damage caused by chemical road deicing programs together with appropriate bill drafts necessary to implement the findings.

Sec. 16. There is appropriated from the aeronautics* fund to the state department of transportation for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of three hundred thirty-four thousand seven hundred (334,700) dollars, or so much thereof as may be necessary, to be used for salaries, support, maintenance, and miscellaneous purposes.

*Aviation fund §328.36 probably intended

Sec. 17.

1. Unless otherwise provided, the primary road fund is appropriated for highway construction.

2. Unless otherwise provided, the aeronautics fund is appropriated for airport construction.

Sec. 18. Section eighty point eighteen (80.18), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed during the employee's tour of duty. However, the reimbursement shall not exceed seventy-five dollars for each item. The department shall establish rules in accordance with chapter seventeen A (17A) of the Code to carry out the purpose of this paragraph.

Sec. 19. Section ninety-seven A point one (97A.1), subsections two (2) and six (6), Code 1977, is amended to read as follows:

2. "PEACE OFFICER" or "PEACE OFFICERS" shall mean all members of the divisions of highway safety and uniformed force and criminal investigation and bureau of identification in the department of public safety, except clerical workers, who have passed a satisfactory physical and mental examination and have been duly appointed as members of the state department of public safety in accordance with the provisions of section 80.15 and the division of drug law enforcement and arson investigators in the department of public safety except clerical workers, and the division of beer and liquor law enforcement of the department of public safety, except clerical workers.

6. "MEMBERSHIP SERVICE" shall mean service as a peace officer in the division of highway safety and uniformed forces or the division of criminal investigation and bureau of identification or division of drug law enforcement in the department of public safety and arson investigators rendered since last becoming a member, or, where membership is regained as provided in this chapter, all of such service.

Sec. 20. Section ninety-seven A point three (97A.3), subsection one (1), Code 1977, is amended to read as follows:

1. All members of the division of highway safety and uniformed force and the division of criminal investigation and bureau of identification in the department of public safety, excepting the members of the clerical force, who are

*Aviation fund §328.36 probably intended

employed by the state of Iowa when this chapter becomes effective, and all persons thereafter employed as members of such divisions in the department of public safety or division of drug law enforcement and arson investigators or qualified members of the division of beer and liquor law enforcement in said department except the members of the clerical force shall be members of this system. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

Sec. 21. Section ninety-seven A point four (97A.4), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Any member of the system who has been employed continuously prior to the passage of this chapter in the division of highway safety and uniformed force or the division of criminal investigation and bureau of identification in the department of public safety, or as a member of the Iowa highway safety patrol, or as a peace officer or a member of the uniformed force in any department or division whose functions were transferred to, merged, or consolidated in the department of public safety at the time such department was created, shall receive credit for such service in determining retirement and disability benefits provided for in this chapter. Arson investigators who have contributed to this system prior to the effective date of this Act shall receive credit for such service in determining retirement and disability benefits.

Sec. 22. Section ninety-seven A point six (97A.6), subsection seven (7), paragraph c, Code 1977, is amended to read as follows:

c. The commissioner of public safety may, subject to approval of the medical board, assign any former member of the division of highway safety and uniformed force or the division of criminal investigation and bureau of identification or an arson investigator who is retired and drawing a pension for disability under the provisions of this chapter, to the performance of light duties in such division.

Sec. 23. Section ninety-seven A point six (97A.6), subsection ten (10), Code 1977, is amended to read as follows:

10. RETURN OF ACCUMULATED CONTRIBUTIONS. Should a member cease to be a peace officer in the division of highway safety and uniformed force or the division of criminal investigation and bureau of identification in the department of public

safety or an arson investigator except by death or retirement, he or she shall be paid on demand the amount of his or her accumulated contributions standing to the credit of his or her individual account in the annuity savings fund.

Sec. 24. Section three hundred twelve point two (312.2), subsection five (5), Code 1977, is amended to read as follows:

5. The treasurer of state shall before making the above allotments credit annually to the highway grade crossing safety fund the sum of five hundred thousand dollars, credit annually to the primary road fund the sum of one million four hundred fifty-five thousand dollars for carrying out subsection ~~42~~ eleven (11) of section 307A.2, the last paragraph of section 313.4 and section 307A.5, and credit annually to the primary road fund the sum of five hundred thousand dollars to be used for paying expenses incurred by the state department of transportation other than expenses incurred for extensions of primary roads in cities. All unobligated funds provided by this subsection, except those funds credited to the highway grade crossing safety fund, shall at the end of each year revert to the road use tax fund. Funds in the highway grade crossing safety fund shall not revert to the road use tax fund except to the extent they exceed five hundred thousand dollars at the end of any biennium.

Sec. 25. Section six hundred ninety-three point seven (693.7), Code 1977 Supplement, is amended to read as follows:

693.7 COMMUNICATION WITH LOCAL AGENCIES. The department of public safety shall maintain law enforcement communications with local enforcement agencies ~~using-frequencies-in-use-on July-47-1973. The-Iowa-highway-safety-patrol-base-stations and-all-Iowa-highway-safety-patrol-cars-assigned-to-troopers and-sergeants-with-field-enforcement-responsibilities-shall maintain-law-enforcement-communications-with-local-enforcement-agencies-using-transmitting-and-receiving-frequencies in-use-by-the-Iowa-highway-safety-patrol-on-July-47-1973.~~

Sec. 26. It is the intent of the general assembly that the commissioner of public safety shall reassign the arson investigators from the division of criminal investigation and bureau of identification of the department of public safety to the state fire marshal's office effective July 1, 1978 and the arson investigators shall be under the direct supervision of the state fire marshal.

Sec. 27. It is the intent of the general assembly that an amount equal to fifty-five thousand dollars appropriated

for the fiscal year beginning July 1, 1978 and ending June 30, 1979, by the general assembly from the road use tax fund to the fund to maintain state institutional roads and state park roads shall be expended by the state department of transportation for the construction of the Hudson road improvement project on the campus of the university of northern Iowa as proposed by the state board of regents. The state department of transportation shall also expend the funds appropriated pursuant to subsection six (6) of section ten (10) of this Act for the project. Funds appropriated from the road use tax fund for the Hudson road improvement project shall be considered an interest-free loan to the state board of regents to be repaid by the board in the manner provided in this section. During the fiscal year beginning July 1, 1979 and ending June 30, 1980, the state department of transportation shall, in apportioning funds appropriated for state institutional roads and state park roads pursuant to section three hundred twelve point two (312.2), subsection five (5), of the Code, withhold fifty-five thousand (55,000) dollars as payment of one-half of the loan from the road use tax fund for the Hudson road improvement project. During the fiscal year beginning July 1, 1980 and ending June 30, 1981, the state department of transportation shall, in apportioning funds appropriated for state institutional roads and state park roads pursuant to section three hundred twelve point two (312.2), subsection five (5), of the Code, withhold fifty-five thousand (55,000) dollars, or so much thereof as is necessary, to be credited to the road use tax fund as the final payment of the outstanding balance of the loan for the Hudson road improvement project.

Sec. 28. Section three hundred twelve point two (312.2), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The treasurer of the state shall establish a revolving fund for use by affected jurisdictions for great river road projects. Funds shall be advanced at the request of the state department of transportation to affected jurisdictions as noninterest loans and shall be utilized for the construction of eligible great river road highway projects. Funds may be advanced from either the primary road fund or the farm-to-market road fund. The amount advanced and not reimbursed shall not exceed five million dollars at any one time from either the primary road fund or the farm-to-market road fund, nor shall the amount advanced and not reimbursed

at any one time from all funds combined exceed seven million five hundred thousand dollars.

Sec. 29. Funds advanced as provided by section twenty-eight (28) of this Act shall be administered by the state department of transportation. The department shall require repayment of the advanced funds within ten years. The treasurer of state shall, upon the request of the state department of transportation, transfer a portion of the affected local jurisdiction's allocation sufficient to meet repayment requirements if the terms of the individual agreements are not complied with.

Sec. 30. Section three hundred twenty-four point three (324.3), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred six (106), section one (1), and House File four hundred ninety-one (491), as enacted by the Sixty-seventh General Assembly, 1978 Session, section sixteen (16), is amended by striking subsection four (4).

Sec. 31. Section three hundred twenty-four point three (324.3), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred six (106), section one (1), and House File four hundred ninety-one (491), as enacted by the Sixty-seventh General Assembly, 1978 Session, section sixteen (16), is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Motor fuel shall be sold tax paid to the state of Iowa, any of its agencies, or to any political subdivision of the state. Tax on fuel which is used for public purposes shall be subject to refund. Claims for refunds will be filed with the department on a quarterly basis and in no case will the director grant a refund of motor fuel or special fuel tax where a claim is not filed within one year from the date the tax was due. The claim shall contain the number of gallons purchased, the calculation of the amount of motor fuel and special fuel tax subject to refund and any other information required by the department necessary to process the refund.

NEW UNNUMBERED PARAGRAPH. Each state agency and political subdivision of the state which has purchased special fuel tax free as a user shall file with the department of revenue, prior to January fifteenth in each year, a report of the number of gallons of special fuel purchased tax free by the state agency or the political subdivision of the state in the prior calendar year and a calculation of the amount of

special fuel tax that would have been required for the previous calendar year if the state agency or political subdivision had been required to pay state motor fuel and state special fuel taxes.

Sec. 32. Section three hundred twenty-four point thirty-five (324.35), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred six (106), section two (2), and House File four hundred ninety-one (491), as enacted by the Sixty-seventh General Assembly, 1978 Session, section twenty (20), is amended by striking unnumbered paragraph two (2) and inserting in lieu thereof the following:

Tax on special fuel sold to the state of Iowa, any of its agencies, or any political subdivisions of the state where such fuel is used for public purposes shall be subject to refund. Claims shall be filed in accordance with the claims for motor fuel tax refunds provided by section three hundred twenty-four point three (324.3) of the Code.

Sec. 33. If House File four hundred ninety-one (491), as enacted by the Sixty-seventh General Assembly, 1978 Session, does not become law, the provisions of sections thirty (30), thirty-one (31), and thirty-two (32) of this Act are void.

Sec. 34. It is the intent of the general assembly that if Senate File two thousand one hundred eighty-four (2184) is enacted by the Sixty-seventh General Assembly, 1978 Session, and becomes law, the funds appropriated to the railroad assistance fund pursuant to section seven (7), subsection three (3) of this Act shall not be transferred to the state department of transportation from the general fund of the state and the appropriation made pursuant to section seven (7), subsection three (3) of this Act is void. ***

Sec. 35. If House File four hundred ninety-one (491) is enacted by the Sixty-seventh General Assembly, 1978 Session, and becomes law, and House File four hundred ninety-one (491) amends the provisions of section three hundred twelve point two (312.2), subsection five (5) of the Code by increasing the annual standing appropriation from the road use tax fund to the primary road fund by fifty-five thousand dollars or more for fiscal years beginning July 1, 1978 for carrying out the provisions of section three hundred seven A point two (307A.2), subsection eleven (11) of the Code, section twenty-four (24) of this Act is void.

***Item veto

Sec. 36. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in such federal grants or receipts.

Sec. 37. Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one thousand two hundred forty-six (1246), section two (2), is repealed.

Approved June 26, 1978, except the items designated as Subsection 6 of Section 6 and Section 34 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit House File 2290, an act making appropriations to and relating to the financing of agencies whose responsibilities relate to transportation, public safety, and public defense.

House File 2290 is approved June 26, 1978, with the following exceptions which I hereby disapprove.

I am unable to approve the item designated in the Act as Subsection 6 of Section 6 which reads as follows:

6. It is the intent of the general assembly that prior to the expenditure of funds by the department for the purpose of organizing or providing continuous support of an internal affairs division within the department of public safety, the department shall adopt rules pursuant to chapter seventeen A (17A) of the Code providing for the method and procedures to be followed in an internal affairs investigation.

I am unable to approve the item designated in the Act as Section 34 which reads as follows:

Sec. 34. It is the intent of the general assembly that if Senate File two thousand one hundred eighty-four (2184) is enacted by the Sixth-seventh General Assembly, 1978 Session, and becomes law, the funds appropriated to the railroad assistance fund pursuant to section seven (7), subsection three (3) of this Act shall not be transferred to the state department of transportation from the general fund of the state and the appropriation made pursuant to section seven (7), subsection three (3) of this Act is void.

Subsection 6 of Section 6 requires the Department of Public Safety to adopt rules pursuant to the Administrative Procedures Act regarding the method and procedures to be followed in an internal affairs investigation prior to the use of the appropriation to support the Internal Affairs Division of the Department.

The Internal Affairs Division has been in existence since August, 1976. It is designed to handle the especially sensitive area of investigating complaints and suggestions of alleged wrongdoing by law enforcement officers and members of the Department of Public Safety.

Public Safety has not adopted rules for internal affairs investigations pursuant to the Administrative Procedures Act because the Administrative Procedures Act was not intended for such a purpose. The Administrative Procedures Act was passed to protect the general public from arbitrary actions of state agencies and provide adequate notice to the public of intended actions or procedural changes of the agency. The Administrative Procedures Act was not intended to hamstring or tie down the management of a state agency when it comes to the agency's internal operations which do not directly affect the rights of the public. Specifically to that point, 17A.2(7)(a) of the Administrative Procedures Act exempts from the definition of "rule":

A statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof.

While no agency is required to adopt rules pursuant to the Administrative Procedures Act for its internal operations, the officers and members of the Department of Public Safety have a legitimate right to know how investigations of alleged complaints against them will be handled. To that end, the Department of Public Safety two years ago adopted peace officer personnel rules which outline the department's disciplinary procedures including how complaints against officers are to be handled. These rules, based on the model rules proposed by the International Association of Chiefs of Police, have been widely publicized among the personnel of the Department of Public Safety and are available to anyone on demand. Every procedure of an internal investigation is not spelled out to the last detail since there must be some discretion left to supervisors to handle the merits of each case as it arises.

It should also be noted that the Commissioner of Public Safety intends to file rules relating to the procedure for the filing of a complaint against a peace officer by a member of the general public. The rules will specify how a complaint may be filed, what information should be provided and how notice will be provided to the complainant when final action on the complaint has been taken.

These new rules are appropriate because they advise the public of how complaints will be accepted and processed. This format for these rules is also appropriate. Attempting to use the Administrative Procedures Act for the internal operations of an agency is inappropriate.

Section 34, which controls the funding of the branch line revitalization program in Subsection 3 of Section 7 was inserted into House File 2290 because of the uncertain legislative fate of Senate File 2184 to which it is tied. I have vetoed the provision of Senate File 2184 which would have provided an alternative source of funds for the branch line program. To keep the remaining branch line revitalization appropriation contained in House File 2290 alive, this provision should be deleted. Therefore, it is.

For the above reasons, I hereby disapprove these items in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 2290 are hereby approved as of this date.

Sincerely,


Robert D. Ray
Governor

CHAPTER 1020
CLAIMS REIMBURSEMENTS

H. F. 2466

AN ACT to make appropriations from the general fund and reimbursement fund of the state to certain persons in settlement of claims made against the state of Iowa.

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

Section 1. There is appropriated from the general fund and reimbursement fund of the state to the following persons the amount set opposite their respective names in full settlement of all claims which they may have against the state of Iowa:

Claimant	Claim No.	Nature of Claim	Amount
1. Valerie Ann Hunter Des Moines, Iowa	2936-67-25	Merit Pay adjustment	\$ 513.00
2. Bessie Crann Avoca, Iowa	2924-67-25	Property damage caused by foster child	75.00
3. Admiral Merchants Motor Freight, Inc., Minneapolis, Minnesota	3527-67-25	Registration fee refund	700.00
4. Othie R. McMurry Ankeny, Iowa	3354-67-25	Vacation pay refund	3,638.30

5.	Olen Johnson Camp Dodge, Grimes, Iowa	3643-67-25	Replace eyeglasses	75.00
6.	Leon H. Wombacher Iowa City, Iowa	3776-67-25	Replace eyeglasses	85.00
7.	Vida R. Holmes Bayard, Iowa	3850-67-25	Replace radio	20.00
8.	Nancy M. Gardiner Minburn, Iowa	3851-67-25	Replace radio	30.00
9.	Maquoketa Medical Center, Maquoketa, Iowa	3917-67-25	Outdated billing	11.00
10.	Maquoketa Medical Center, Maquoketa, Iowa	3918-67-25	Outdated billing	164.50
11.	M. E. Alberts, M.D., Des Moines, Iowa	4010-67-25	Outdated billing	25.00
12.	Iowa Methodist Medical Center Des Moines, Iowa	4015-67-25	Outdated billing	284.00
13.	Family Medical Center, Oskaloosa, Iowa	4059-67-25	Outdated billing	320.00
14.	A. L. Beardslee, D.D.S., Clinton, Iowa	4085-67-25	Payment for ser- vices	164.50
15.	James Allen Van Syoc, Indianola, Iowa	4185-67-25	Broken eyeglasses	12.00
16.	City Treasurer, City of Des Moines Des Moines, Iowa	4193-67-25	Outdated claim	35.00
17.	Alan Lewis Beardslee, D.D.S. Clinton, Iowa	4202-67-25	Outdated claim	44.50
18.	Midwest OB-Gyn, P.C., Omaha, Nebraska	4207-67-25	Outdated claim	37.00
19.	American Emergency Medical Services, Inc., Des Moines, Iowa	4212-67-25	Outdated claim Title XIX	258.00

20.	Robert C. Jones, M.D., Des Moines, Iowa	4239-67-25	Outdated claim	70.00
21.	Dennis Floyd Burns Des Moines, Iowa	75-66-25	Property reimburse- ment	100.00
22.	Anna M. Weems Waterloo, Iowa	2771-67-25	Outdated claim	354.99
23.	Charles E. Newcomer D.D.S., West Des Moines, Iowa	4294-67-25	Outdated claim	656.25
24.	Rowley Interstate Transportation Co., Inc., Dubuque, Iowa	4383-67-25	Prorate refund	5,901.36
25.	Central Iowa Medical, P.C. Des Moines, Iowa	3501-67-25	Outdated invoice	1,498.40
26.	Creighton-Nebraska Neurology Program Omaha, Nebraska	3999-67-25	Outdated claim Title XIX	40.00
27.	Neurological Institute & Pain Center, P.C. Sioux City, Iowa	4291-67-25	Outdated claim Title XIX	80.00
28.	Paul R. Madison, M.D., Nebraska City, Nebraska	4296-67-25	Outdated claim Title XIX	56.00
29.	Paul R. Madison, M.D., Nebraska City, Nebraska	4297-67-25	Outdated claim Title XIX	27.00
30.	Paul R. Madison, M.D., Nebraska City, Nebraska	4298-67-25	Outdated claim Title XIX	27.00
31.	University of Iowa Hospitals & Clinics Iowa City, Iowa	4428-68-25	Outdated claim Title XIX	304.00
32.	Decker Truck Lines, Inc. Fort Dodge, Iowa	4458-68-25	Prorate refund	3,600.00

Sec. 2. The amounts of the claims against the state in subsections three (3) and twenty-four (24) of section one (1) of this Act shall be paid from the reimbursement fund

provided for in section three hundred twenty-one point one hundred twenty-nine (321.129) of the Code. The remainder of the claims shall be paid from the general fund of the state.

Sec. 3. The general assembly disapproves all other claims submitted and considered by the committee on claims as of May 12, 1978.

Approved June 13, 1978

CHAPTER 1021

IOWA BOUNDARY COMMISSION

H. F. 2285

AN ACT to create an Iowa boundary commission.

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

Section 1. Chapter two (2), Code 1977, is amended by adding the following new section:

NEW SECTION. IOWA BOUNDARY COMMISSION.

1. There is established an Iowa boundary commission which shall consist of three members of the senate appointed by the president of the senate and three members of the house of representatives appointed by the speaker of the house. The commission shall select a chairperson and shall meet at the call of the chairperson.

2. Members shall be appointed to a term of four years commencing on July first of the year of appointment. Vacancies shall be filled in the same manner as original appointments and shall be for the remainder of the unexpired term of the vacancy. The members of the commission shall be reimbursed for actual and necessary expenses incurred in the performance of their duties and shall receive forty dollars for each day in which engaged in the performance of such duties. However, such per diem compensation and expenses shall not be paid when the general assembly is actually in session at the seat of government. Per diem and expenses of the commission and its members shall be paid from funds appropriated pursuant to section two point twelve (2.12) of the Code.

3. The commission is authorized to meet with appropriate

representatives of affected states, agencies of those states and Iowa, and agencies of the United States to discuss Iowa's boundaries and problems related to those boundaries and to make periodic reports and recommendations to the general assembly. The commission is authorized to expend reasonable sums for the purchase of maps and other information helpful to its discussions.

4. The commission may hold hearings with authority to call witnesses, administer oaths, issue subpoenas, and cite for contempt.

5. If a proposal is negotiated between Iowa and affected states after meetings authorized under this section, the attorney general of this state shall assist the commission in drafting the necessary documents to be approved by the Iowa general assembly in preparation for the ratification of agreements between Iowa and affected states.

Staff assistance for meetings of the commission shall be provided by the legislative service bureau.

Sec. 2. For the initial board, the president of the senate and the speaker of the house shall each appoint pursuant to section one (1) of this Act on the effective date of this Act, one member to a two-year term and two members to a four-year term.

Approved June 13, 1978

CHAPTER 1022

CODE CORRECTIONS

H. F. 2462

AN ACT correcting and relating to erroneous and obsolete sections of the Code.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter three (3), section three (3), amending section two point ten (2.10), subsection five (5), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The state comptroller shall pay the travel and expenses of the members of the general assembly and the lieutenant governor ~~semi-monthly~~ commencing with the first pay period after the names of such persons are officially certified.

The salaries of the members of the general assembly and lieutenant governor shall be paid pursuant to any of the following alternative methods:

Sec. 2. Section fourteen point twenty-two (14.22), Code 1977, is amended to read as follows:

14.22 APPROPRIATION. There is hereby appropriated out of any money in the treasury not otherwise appropriated an amount sufficient to defray all expenses incurred in the carrying out of the provisions of this chapter, ~~but before any obligations for expenditure from this appropriation shall be incurred the same shall be approved by the comptroller.~~

Sec. 3. Section sixty-four point six (64.6), Code 1977, is amended by striking subsection twenty-three (23).

Sec. 4. Section two hundred twenty-nine point twenty-two (229.22), subsections two (2) and three (3), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1978 Session, Senate File three hundred thirty-three (333), section seven (7), is amended to read as follows:

2. In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure himself or herself or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility as defined in section 229.11, subsections 2 and 3. A person believed mentally ill, and likely to injure himself or herself or others if not immediately detained, may be delivered to a hospital by someone other than a peace officer. Upon delivery of the person believed mentally ill to the hospital, the chief medical officer may order treatment of that person, including chemotherapy, but only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The peace officer who took the person into custody, or other party who brought the person to the hospital, shall describe the circumstances of the matter to the chief medical officer. If the chief medical officer finds that there is reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure himself or herself or others if not immediately detained, the chief medical officer shall ~~enter a written order for the person to be detained in custody~~ at once communicate with

the nearest available magistrate as defined in section eight hundred one point four (801.4), subsection six (6) of the Code Supplement. The magistrate shall immediately proceed to the facility where the person is detained, except that if the chief medical officer's communication with the magistrate occurs between the hours of midnight and the next succeeding seven o'clock a.m. and the magistrate deems it appropriate under the circumstances described by the chief medical officer, the magistrate may delay going to the facility and in that case shall give the chief medical officer verbal instructions either directing that the person be released forthwith or authorizing the person's continued detention at that facility. In the latter case, the magistrate shall:

a. By the close of business on the next working day, file with the clerk a written report stating the substance of the information on the basis of which the person's continued detention was ordered; and

b. Arrive at the facility where the person is being detained not later than eight o'clock a.m. of the same day on which the chief medical officer's notification occurs.

3. Upon arrival at the hospital, the magistrate shall at once review the matter. Unless convinced upon initial inquiry that there are no grounds for further detention of the person, the magistrate shall in the manner prescribed by section two hundred twenty-nine point eight (229.8), subsection one (1) of the Code insure that the person has or is provided legal counsel at the earliest practicable time, and shall arrange for the counsel to be present, if practicable, before proceeding further under this section. If the magistrate finds upon review of the report prepared by the chief medical officer under subsection two (2) of this section, and of such other information or evidence as the magistrate deems pertinent, that there is probable cause to believe that the person is seriously mentally impaired and because of that impairment is likely to physically injure himself or herself or others if not detained, the magistrate shall enter a written order for the person to be detained in custody and, if the facility where the person is at that time is not an appropriate hospital, transported to an appropriate hospital. The magistrate's order shall state the circumstances under which the person was taken into custody or otherwise brought to a hospital and the grounds supporting the finding of probable cause to believe that he or she is

seriously mentally impaired and likely to physically injure himself or herself or others if not immediately detained. The order shall be filed with the clerk of the district court in the county where it is anticipated that an application will be filed under section two hundred twenty-nine point six (229.6) of the Code, and a certified copy of the order shall be delivered to the chief medical officer of the hospital where the person is detained, at the earliest practicable time.

Sec. 5. Sections one hundred seventy point fifteen (170.15), one hundred ninety-two A point twenty-three (192A.23), and two hundred thirty-nine point sixteen (239.16), Code 1977, are repealed.

Approved June 29, 1978

CHAPTER 1023

DATA PROCESSING INTERACTIVE DECISION EVALUATION

H. F. 2329

AN ACT creating and making an appropriation for the purpose of funding the acquisition, development, installation and use of a data processing interactive decision evaluation system encompassing state and local finance and budgeting procedures.

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

Section 1. There is appropriated from the general fund of the state to the legislative fiscal bureau for the fiscal period beginning with the effective date of this Act and ending June 30, 1979 the sum of five hundred eighty-five thousand (585,000) dollars, or so much thereof as is necessary, for the purpose of developing, maintaining, and using a data processing interactive decision evaluation action system created by section three (3) of this Act. Funds appropriated by this section shall be expended for the purposes specified in this section, section two (2) and subsection two (2) of section three (3) of this Act.

Sec. 2. From funds appropriated in section one (1) of this Act, the sum of one hundred seventy-five thousand one hundred ninety-six dollars and twenty-nine cents (\$175,196.29) shall be paid to the consulting firm of Coopers & Lybrand for services which Coopers & Lybrand has heretofore rendered

for the purpose of this appropriation. The Coopers & Lybrand firm may be hereafter employed from the remainder of the funds appropriated in section one (1) of this Act, for the purposes specified therein, without competitive bid.

Sec. 3. Chapter two (2), Code 1977, is amended by adding the following new section:

NEW SECTION. INTERACTIVE DECISION EVALUATION ACTION SYSTEM-
-ADMINISTRATION.

1. There is created an interactive decision evaluation action system which shall encompass state budgeting and analysis procedures relating to the appropriation and expenditure of funds and shall contain data which will aid in determining the effect of proposals relating to property and other taxes upon the state and local governments including the feasibility of collecting and computerizing individual property tax assessment data. There shall be a data base manager who shall be an employee of the legislative fiscal bureau but whose employment shall be subject to the joint approval of the legislative fiscal director and the state comptroller. The data base manager shall be responsible for the daily management of the interactive decision evaluation action system subject to the orders of the legislative fiscal director. Data which is to be placed into the interactive decision evaluation action system shall be subject to the joint approval of the legislative fiscal director and the state comptroller.

2. Funds appropriated by the general assembly for maintaining the interactive decision evaluation action system shall be expended for the purposes specified in the Act appropriating such funds and for the following purposes:

- a. The lease or purchase of necessary equipment or computer time.
- b. The execution of necessary contracts providing for consulting services or computer services.
- c. The acquisition and development of software.
- d. The employment of necessary personnel.
- e. Necessary costs required to implement and use the system.

Contracts for consulting services for the interactive decision evaluation action system shall be signed by the speaker of the house, majority floor leader of the senate, the lieutenant governor, and the governor or a designee of the governor. Funds available pursuant to section two point twelve (2.12)

of the Code shall not be expended for any of the purposes specified in paragraphs a through e of this subsection.

Sec. 4. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Manly Signal, a newspaper published in Manly, Iowa, and in the Dallas County News, a newspaper published in Adel, Iowa.

Approved April 27, 1978

I hereby certify that the foregoing Act, House File 2329 was published in the Manly Signal, Manly, Iowa on May 4, 1978, and in the Dallas County News, Adel, Iowa on May 3, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1024

ADMINISTRATIVE RULES AND CODE OF IOWA

S. F. 244

AN ACT relating to procedures for approving and publishing administrative rules and the Code of Iowa.

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

Section 1. Section two point forty-two (2.42), subsection eleven (11), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter thirty-eight (38), section two (2), is amended to read as follows:

11. To ~~consult-with~~ appoint the Code editor, establish the salaries of the persons employed in that office and establish policies with regard to the printing and publishing of the Iowa administrative code and bulletin, the Code of Iowa and session laws, including but not limited to: The style and format to be used in publishing such documents, the frequency of publications, the contents of such publications, the numbering system to be used in the Code and session laws, the preparation of editorial comments or notations, the correction of errors, the type of print to be used, the number of volumes to be published, recommended revisions of the Code and session laws, the letting of contracts for the publication of the Code and session laws, and any other matters deemed necessary to the publication

of a uniform and understandable Code of laws.

Sec. 2. Chapter seven (7), Code 1977, is amended by adding the following new section:

NEW SECTION. OFFICE OF ADMINISTRATIVE RULES COORDINATOR.

The governor shall establish the office of the administrative rules coordinator, and appoint its staff, which shall be a part of the governor's office. The administrative rules coordinator shall receive all notices and rules promulgated pursuant to chapter seventeen A (17A) of the Code and provide the governor with an opportunity to review and object to any rule as provided in chapter seventeen A (17A) of the Code. The administrative rules coordinator in consultation with the Code editor shall prescribe a uniform style and form by which an agency shall prepare and file a rule pursuant to chapter seventeen A (17A) of the Code which shall correlate each rule to a uniform numbering system devised by the administrative rules coordinator. The administrative rules coordinator shall review all submitted rules for style and form and may return or revise a rule which is not in proper style and form.

Sec. 3. Section fourteen point one (14.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

14.1 CODE EDITOR. The legislative council shall appoint a Code editor who shall serve at the pleasure of the legislative council.

Sec. 4. Section fourteen point six (14.6), Code 1977, is amended by striking subsections five (5) and six (6) and inserting in lieu thereof the following:

5. Notify the administrative rules coordinator that a rule is not in proper style or form.

Sec. 5. Section fourteen point ten (14.10), subsection two (2), Code 1977, is amended to read as follows:

2. The Acts of each general assembly shall ~~as-nearly as-possible~~ be arranged in the ~~same-consecutive~~ order in ~~which-the-same-or-similar-subject-matters-are-arranged-in-the-Code~~ determined by the Code editor and approved by the legislative council.

Sec. 6. Section fourteen point twelve (14.12), subsections one (1), two (2), and nine (9), Code 1977, are amended to read as follows:

1. The printing of the text shall be in a manner specified by the Code editor ~~in-consultation-with~~ and approved by the legislative council.

2. The Code shall be numbered in a manner specified by the Code editor ~~in-consultation-with~~ and approved by the legislative council.

9. The Code shall be printed upon a good quality of paper in a manner specified by the Code editor ~~in-consultation-with the-legislative-council~~ according to the recommendations prepared by the superintendent of printing and approved by the legislative council.

Sec. 7. Section fourteen point thirteen (14.13), unnumbered paragraph one (1), and subsection one (1), Code 1977, is amended to read as follows:

The Code editor in preparing the copy for an edition of the Code and the Iowa ~~departmental-rules~~ administrative code and bulletin shall have power to:

1. Correct ~~therein~~ all misspelled words in the original enrollments and filed rules.

Sec. 8. Section fourteen point fifteen (14.15), Code 1977, is amended to read as follows:

14.15 FUTURE CODES. A new Code or its supplements ~~thereto~~ shall be issued as soon as possible after the final adjournment of the second regular session of the general assembly. Supplements to the Code may be issued after the first regular session or a special session of the general assembly in such manner as shall be determined by the Code editor ~~in consultation-with~~ and approved by the legislative council. The Code editor shall, immediately after the issuance of a new Code, prepare copy for the ensuing Code or its supplement ~~thereto~~, and at all times keep the same revised to date in the files of his or her office. The superintendent of printing board shall cause such Code or its supplement ~~thereto~~ to be printed in the manner specified by the Code editor ~~in consultation-with~~ and approved by the legislative council and the proofreading on such Code shall be solely under the direction and control of the Code editor.

Sec. 9. Section fourteen point sixteen (14.16), Code 1977, is amended to read as follows:

14.16 PREPARATION. All new editions of the Code or its supplements ~~thereto~~ shall be so prepared and printed that each section of the general statute law shall appear in ~~said~~ the new edition in its new or ~~finally-revised-and~~ amended form. All sections of law of a general nature enacted after the last preceding Code or supplement shall be inserted in each new edition in such logical order as the editor of the

Code may determine subject to the approval of the legislative council in consultation with the legislative service bureau.

All new editions of the Code or its supplements thereto may be printed in one or more volumes as shall be determined by the ~~majority-of-a-committee-consisting-of-the-Code-editor,~~ ~~the-chief-justice-of-the-supreme-court-and-the-superintendent~~ ~~of-printing~~ legislative council.

Sec. 10. Section fourteen point twenty (14.20), Code 1977, is amended to read as follows:

14.20 OFFICIAL STATUTES. The Code, supplements to the Code and session laws published under authority of the state shall constitute the only authoritative publications of the statutes of this state. No other publications of the statutes of the state shall be cited in the courts or in the reports or rules thereof.

Sec. 11. Section fourteen point twenty-one (14.21), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The ~~printing-division~~ Code editor in consultation with the superintendent of printing may cause to be printed from time to time, in the form of leaflets, folders, or pamphlets and in such numbers as the ~~division~~ Code editor deems reasonable, parts of the Code for the use of public officers. Such orders shall be limited to actual needs as shown by experience or other competent proof, and the printing shall, ~~as-far-as-practicable,~~ be done ~~from-the-plates-or-slugs-from~~ ~~which-the-Code-has-been-printed~~ in an economical manner approved by the legislative council.

Sec. 12. Section seventeen A point four (17A.4), subsection one (1), paragraph a, Code 1977, is amended to read as follows:

a. Give notice of its intended action by submitting ~~two~~ three copies of the notice to the administrative rules coordinator who shall forward two copies to the Code editor ~~to-be-published~~ for publication in the "Iowa Administrative Code Bulletin" created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

Sec. 13. Section seventeen A point four (17A.4), subsection two (2), Code 1977, is amended to read as follows:

2. When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest, the provisions of subsection 1 shall be inapplicable ~~if the rule which is so adopted provides by its own terms that it shall be effective for only one hundred eighty specified days. -- If an agency for good cause finds that notice and public participation would be unnecessary, subsection 1 shall be inapplicable.~~ The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons therefor, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1 by a special rule relying on this provision and including such a finding and statement of reasons for the entire category. If the administrative rules review committee by a two-thirds vote, the governor or the attorney general files with the Code editor an objection to the adoption of any rule pursuant to this subsection, that rule shall cease to be effective one hundred eighty days after the date the objection was filed. A copy of the objection, properly dated, shall be forwarded to the agency at the time of filing the objection. In any action contesting a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to show that the procedures of subsection 1 were impracticable, unnecessary, or contrary to the public interest and that, if a category of rules was involved, the category was very narrowly tailored.

Sec. 14. Section seventeen A point four (17A.4), subsection four (4), paragraph a, Code 1977, is amended to read as follows:

a. If the administrative rules review committee created by section 17A.8, the governor or the attorney general finds objection to all or some portion of a proposed rule because that rule is deemed to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency, the committee, governor or attorney general may, in writing, notify the agency of the objection prior to the effective date of such a rule. In the case of a rule issued under subsection 2, or a rule made effective under the terms of section 17A.5, subsection 2, paragraph "b", the committee, governor or attorney general may notify the agency of such an objection within seventy days of the date such a rule became effective. The committee, governor or the attorney

general shall also file a certified copy of such an objection in the office of the secretary-of-state Code editor within the above time limits and a notice to the effect that an objection has been filed shall be published in the next supplement-to issue of the "Iowa-Administrative-Code" Iowa administrative bulletin and in the Iowa administrative code when that rule is printed in it. The burden of proof shall then be on the agency in any proceeding for judicial review or for enforcement of the rule heard subsequent to the filing to establish that the rule or portion of the rule timely objected to according to the above procedure is not unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to it.

Sec. 15. Section seventeen A point four (17A.4), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The governor may rescind an adopted rule by executive order within thirty-five days of the publication of the rule. The governor shall provide a copy of the executive order to the Code editor who shall include it in the next publication of the Iowa administrative bulletin.

Sec. 16. Section seventeen A point five (17A.5), subsection one (1), Code 1977, is amended to read as follows:

1. Each agency shall file in the office of the secretary of-state administrative rules coordinator three certified copies of each rule adopted by it. Two copies of each rule shall be forwarded to the Code editor by the administrative rules coordinator. The secretary-of-state administrative rules coordinator shall keep a permanent register of the rules open to public inspection.

Sec. 17. Section seventeen A point five (17A.5), subsection two (2), paragraph b, Code 1977, is amended to read as follows:

b. Subject to applicable constitutional or statutory provisions, a rule becomes effective immediately upon filing with the secretary-of-state administrative rules coordinator, or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing and publication, if the agency finds:

Sec. 18. Section seventeen A point six (17A.6), subsection one (1), Code 1977, as amended by House File two thousand ninety-nine (2099), section four (4), as enacted by the Sixty-seventh General Assembly, 1978 Session, is amended to read as follows:

1. The Subject to the direction of the administrative rules coordinator, the Code editor shall cause the "Iowa Administrative Code" to be compiled, indexed and published in loose-leaf form containing all rules adopted and filed by each agency. The Code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published at least every other week, in such a form that they may be filed in the appropriate places in the compilation, containing all rules filed for publication in the prior two weeks. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. ~~The Code editor~~ administrative rules coordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.

Sec. 19. Section seventeen A point eight (17A.8), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule until the expiration of forty-five calendar days, excluding legal holidays, during which the general assembly is in regular session. If a rule is delayed during the last twenty-one calendar days preceding the adoption of a resolution for sine die adjournment of a regular session, the forty-five day period shall begin to run upon the convening of the next regular session of the general assembly. The committee shall refer a rule whose effective date has been delayed to the speaker of the house of representatives and the president of the senate who shall refer the rule to the appropriate standing committees of the general assembly. If at the expiration of that period the general assembly has not disapproved of the rule by a joint resolution approved by the governor, the rule shall become effective. If a rule is disapproved, it shall not become effective and the agency shall withdraw the rule. This section shall not apply to rules made effective under section seventeen A point five (17A.5), subsection two (2), paragraph b of the Code.

Sec. 20. Section seventeen A point thirteen (17A.13), subsection one (1), Code 1977, is amended to read as follows:

1. Agencies shall have all subpoena powers conferred upon them by their enabling acts or other statutes. In addition, prior to the commencement of a contested case by the notice referred to in section 17A.12, subsection 1, an agency having power to decide such cases shall have authority to subpoena books, papers, records and any other real evidence necessary

for the agency to determine whether it should institute such a contested case proceeding. After the commencement of a contested case, each agency having power to decide contested cases shall have authority to administer oaths and to issue subpoenas in such cases. Discovery procedures applicable to civil actions shall be available to all parties in contested cases before an agency. Evidence obtained in such discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. Agency subpoenas shall be issued to a party on request and shall not be subject to the distance limitation of section six hundred twenty-two point sixty-six (622.66) of the Code.

On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with the law applicable to the issuance of subpoenas or discovery in civil actions. In proceedings for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in cases of willful failure to comply.

Sec. 21. Section eighteen point ninety-seven (18.97), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The superintendent of printing shall make free distribution of the Code, supplements to the Code, rules of civil procedure, rules of appellate procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, and the Iowa administrative bulletin as follows:

Approved June 27, 1978

CHAPTER 1025

ADMINISTRATIVE RULES

H. F. 2099

AN ACT relating to the publication of administrative rules.

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

Section 1. Section seventeen A point four (17A.4), subsections one (1), four (4), and five (5), Code 1977, are amended to read as follows:

1. Prior to the adoption, amendment, or repeal of any rule an agency shall:

a. Give notice of its intended action by submitting two copies of the notice to the Code editor to be published in the "Iowa Administrative Code Bulletin" created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

b. Afford all interested persons not less than twenty days to submit data, views or arguments in writing. If timely requested in writing by twenty-five interested persons, by a governmental subdivision, by the administrative rules review committee, by an agency, or by an association having not less than twenty-five members, the agency must give interested persons an opportunity to make oral presentation ~~according to agency rules which give the public not less than twenty days notice of the time when and the place where oral presentation may be made, and which provide for the presentation prior to agency action on the rule which is the subject of the proceeding.~~ The opportunity for oral presentation must be held at least twenty days after publication of the notice of its time and place in the Iowa administrative bulletin. The agency shall consider fully all written and oral submissions respecting the proposed rule. Within one hundred eighty days following either the notice published according to the provisions of subsection 1, paragraph "a" or within one hundred eighty days after the last date of the oral presentations on the proposed rule, whichever is later, the agency shall adopt a rule pursuant to the rule-making proceeding or shall terminate the proceeding by publishing notice of termination in the Iowa administrative ~~code~~ bulletin. If requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the agency shall issue a concise statement of the principal reasons for and against the rule it adopted, incorporating therein the reasons for overruling considerations urged against the rule.

c. Upon the request of at least two members of the administrative rules review committee publish in the Iowa administrative ~~code~~ bulletin an estimate of the economic impact of the a proposed rule ~~adoption, amendment, or repeal~~

upon all persons affected by it and upon the agency itself. If the agency determines that such an estimate cannot be formulated the reasons for impossibility of formulation shall be published instead of the estimate. An estimate shall be published at least fifteen days in advance of the adoption, amendment or repeal of the rule. In the case of a rule issued under subsection 2 or made effective under the provisions of section 17A.5, subsection 2, paragraph "b", an estimate, or the reasons for the impossibility of formulating an estimate shall be published within ~~thirty~~ forty-five days of the request.

4. a. If the administrative rules review committee created by section 17A.8 or the attorney general finds objection to all or some portion of a proposed rule because that rule is deemed to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency, the committee or attorney general may, in writing, notify the agency of the objection prior to the effective date of such a rule. In the case of a rule issued under subsection 2, or a rule made effective under the terms of section 17A.5, subsection 2, paragraph "b", the committee or attorney general may notify the agency of such an objection within seventy days of the date such a rule became effective. The committee or the attorney general shall also file a certified copy of such an objection in the office of the secretary of state within the above time limits and a notice to the effect that an objection has been filed shall be published in the next supplement-to issue of the "Iowa-Administrative-Code" Iowa administrative bulletin and in the Iowa administrative code when that rule is printed in it. The burden of proof shall then be on the agency in any proceeding for judicial review or for enforcement of the rule heard subsequent to the filing to establish that the rule or portion of the rule timely objected to according to the above procedure is not unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to it.

b. If the agency fails to meet the burden of proof prescribed for a rule objected to according to the provisions of paragraph "a" of this subsection, the court shall declare the rule or portion of the rule objected to invalid and judgment shall be rendered against the agency for court costs. Such court costs shall include a reasonable attorney fee and shall be payable by the state comptroller from the support appropriations of the agency which issued the rule in question.

5. Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule seventy days beyond that permitted in section 17A.5, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". This provision shall be utilized by the committee only if further time is necessary to study and examine the rule. Notice of an effective date that was delayed under this provision shall be published in the Iowa administrative code and bulletin.

Sec. 2. Section seventeen A point five (17A.5), subsection two (2), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Each rule hereafter adopted is effective thirty-five days after filing, as required in this section, and indexing and publication ~~as required by section 17A.6, in the Iowa administrative bulletin~~ except that:

Sec. 3. Section seventeen A point six (17A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The Code editor shall cause the "Iowa Administrative Bulletin" to be published in pamphlet form at least every other week containing the following:

- a. Notices of intended action and adopted rules prepared in such a manner so that the text of a proposed or adopted rule shows the text of any existing rule being changed and the change being made.
- b. All proclamations and executive orders of the governor which are general and permanent in nature.
- c. Other materials deemed fitting and proper by the administrative rules review committee.

Sec. 4. Section seventeen A point six (17A.6), Code 1977, is amended to read as follows:

17A.6 PUBLICATION OF RULES.

1. The Code editor shall cause the "Iowa Administrative Code" to be compiled, indexed and published in loose-leaf form containing all rules adopted and filed by each agency and notice of all proposed rule-making by each agency. The Code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published supplements to this publication at least every other week which supplements shall contain, in such a form that they may be filed in the appropriate places in the compilation, containing all rules and notice of proposed rules filed for publication in the prior two weeks. The Code editor shall devise a uniform

numbering system for rules and may renumber rules before publication to conform with the system.

2. The Code editor may omit or cause to be omitted from the ~~publication~~ Iowa administrative code or bulletin any rule the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency at no more than its cost of reproduction, and if the ~~publication~~ Iowa administrative code or bulletin contains a notice stating the specific subject matter of the omitted rule and stating how a copy thereof may be obtained.

3. ~~This publication, which shall be known as the "Iowa Administrative Code",~~ The Iowa administrative code, its supplements, and the Iowa administrative bulletin shall be made available upon request to all persons who subscribe to ~~it any of them~~ through the state printing division. Copies of this Code so made available shall be kept current by the division.

4. All expenses incurred by the Code editor under this section shall be defrayed under the provisions of section 14.22.

Sec. 5. Section seventeen A point eight (17A.8), subsection five (5), Code 1977, is amended to read as follows:

5. A regular committee meeting shall be held at the seat of government on the second Tuesday of each month. Unless impracticable in advance of each such meeting the subject matter to be considered shall be published in the Iowa administrative ~~code~~ bulletin. A special committee meeting may be called by the chairperson at any place in the state and at any time. Unless impracticable, in advance of each special meeting notice of the time and place of such meeting and the subject matter to be considered shall be published in the Iowa administrative ~~code~~ bulletin.

Sec. 6. Section seventeen point twenty-two (17.22), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The Iowa administrative code ~~shall~~ and bulletin may be distributed with each order for purchase of the Code ~~and the price set for the Code and administrative code as provided above shall include the cost of both the Code and administrative code.~~ However, the The Iowa administrative code or, its supplements, the Iowa administrative bulletin or the Code may be distributed separately. There shall be established ~~a price~~ separate prices for the Iowa administrative

~~code and a separate price,~~ for its supplements, for the Iowa administrative bulletin and for the Code. The price charged for the Iowa administrative code, ~~or its supplements or the Iowa administrative bulletin~~ shall represent the cost of compiling and indexing plus the amount charged for the printing and distribution ~~of the Iowa administrative code or its supplements.~~

Sec. 7. Section eighteen point ninety-seven (18.97), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The superintendent of printing shall make free distribution of the Code, rules of civil procedure, rules of appellate procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, and the Iowa administrative bulletin as follows:

Sec. 8. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Eldora Herald-Ledger, a newspaper published in Eldora, Iowa, and in The Record, a newspaper published in Cedar Falls, Iowa.

Approved April 17, 1978

I hereby certify that the foregoing Act, House File 2099, was published in the Eldora Herald-Ledger, Eldora, Iowa on April 25, 1978, and in The Record, Cedar Falls, Iowa on April 27, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1026

LEGISLATIVE OVERSIGHT BUREAU

H. F. 246

AN ACT creating a legislative oversight bureau and specifying its powers and duties.

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

Section 1. Chapter two (2), Code 1977, is amended by adding sections two (2) through seven (7) of this Act.

Sec. 2. NEW SECTION. INTENT. It is the intent of the general assembly to establish in the legislative branch of government the capability to independently and intensively review the performance of state agencies in operating the programs established by the general assembly, to evaluate their efficiency and effectiveness and to consider alternatives

which may improve the benefits of a program or may reduce its costs to the citizens. The bureau established by this Act is intended to provide the technical and professional support for the general assembly's oversight responsibility.

Sec. 3. NEW SECTION. LEGISLATIVE OVERSIGHT BUREAU. There is established a legislative oversight bureau. The director of the legislative oversight bureau shall be a person qualified by education, training and experience. The director shall be appointed upon the nomination of the legislative council and the confirmation of that nomination by two-thirds of the members of each house of the general assembly. The initial director shall not be an employee of the state of Iowa.

When a vacancy in the office of the director occurs during the legislative interim, the nomination shall be submitted to the general assembly within thirty days of its convening and must be acted upon by each house within sixty days of its submission. When a vacancy occurs during the legislative session, the nomination shall be submitted within sixty days of the occurrence of the vacancy and must be acted upon by each house within sixty days of its submission unless the general assembly adjourns prior to the expiration of this schedule. If the general assembly adjourns prior to the expiration of this schedule, the nomination may be resubmitted as though the vacancy occurred during the legislative interim. The director may be removed from office for cause by a vote of two-thirds of the members of each house of the general assembly.

Each director shall be appointed to a term of eight years and shall be eligible for only one reappointment. A person nominated as director may serve as an acting director until the nomination is confirmed or rejected by the general assembly. The compensation of the director shall not be reduced during the director's term in office.

A person shall not become a candidate for any elective office nor participate in any partisan political activity while serving as director or acting director. Any director who becomes a candidate contrary to this provision shall thereby be deemed to have resigned.

Sec. 4. NEW SECTION. POWERS AND DUTIES OF THE DIRECTOR. The director of the legislative oversight bureau shall:

1. Employ and supervise all employees of the legislative oversight bureau at such salaries and in such positions and professional disciplines as are within the limits of its appropriation.

2. Establish policies and procedures for the conduct of performance audits and program evaluations.

3. Conduct performance audits and program evaluations of agencies and programs of the state government, area education agencies established in chapter two hundred seventy-three (273) of the Code, and area vocational schools and community colleges defined in chapter two hundred eighty A (280A) of the Code upon the request of a standing committee or budget subcommittee of the general assembly.

4. Determine the priority of performance audit and program evaluation requests and allocate the workload of the legislative oversight bureau. The director shall submit the priority ranking of the requests for approval to a committee composed of two members of the majority party and two members of the minority party of each house of the general assembly. The presiding officer of each house of the general assembly shall appoint the members from that house for a term of four years and shall consider, in making the appointments, the membership of the appropriate standing committees. The votes of five members of the committee shall be required to disapprove of the priority ranking.

5. Make an annual report to the general assembly of the performance audits and program evaluations conducted and in progress and of the condition of the legislative oversight bureau.

The director of the legislative oversight bureau may:

1. Employ such technical consultants as may be necessary to conduct a performance audit or program evaluation.

2. Conduct performance audits and program evaluations upon the request of six members of the general assembly.

3. Conduct performance audits and program evaluations upon the request of the governor.

The director shall not conduct an examination of the programming of a broadcasting facility under the control of the state board of regents, the board of directors of a merged area, or the state educational radio and television facility board.

The director shall not conduct an examination which would be contrary to the academic freedom of area community colleges or the institutions under the state board of regents. The director shall not conduct an examination of the instruction or research methods or the contents of the curricula of such institutions. For the purposes of this paragraph, "academic"

includes teaching, research or educational activities.

Sec. 5. NEW SECTION. ACCESS TO RECORDS. The director and the agents and employees of the legislative oversight bureau shall at all times have access to all offices, departments, agencies, boards, bureaus, and commissions of the state, its political subdivisions and private organizations providing services to individuals under a contract with a state agency, and to the books, records, and other instrumentalities and properties used in the performance of their statutory duties or contractual arrangements. All offices, departments, agencies, boards, bureaus, and commissions of the state, its political subdivisions and such private organizations shall cooperate with the director in the performance of the foregoing duty, and shall make available such books, records, instrumentalities, and property.

The director shall have the power to issue subpoenas for production of any records, books, or papers to which the director is authorized to have access. If any person subpoenaed refuses to produce the records, books, or papers, the director may apply to the district court having jurisdiction over that person for the enforcement of the subpoena.

If the information sought by the legislative oversight bureau is required by law to be kept confidential, the bureau shall have access to the information, but shall maintain the confidentiality of the information and shall be subject to the same penalties for dissemination of the information.

However, the bureau shall not have access to the following:

1. Personal information in academic records regarding a student, prospective student, or former student of the educational institution or agency maintaining the records.
2. Medical and hospital records of the condition, diagnosis, care or treatment of a patient or former patient, including outpatients.
3. Intraoffice memoranda and working papers of the governor and the governor's staff and of the judges of supreme, appellate, and district courts and their clerks and assistants. The director shall inform the administrative head of the agency or political subdivision as to the reason for the investigation of its confidential records.

The legislative oversight bureau shall only require information which an agency is presently collecting unless the director determines that additional information is

necessary to the performance audit and is within the agency's authority to collect.

Sec. 6. NEW SECTION. PERFORMANCE AUDITS AND PROGRAM EVALUATIONS.

1. The director after consulting with the responsible official and the requesting party shall determine the goals of the agency or program for the purpose of the performance audit or program evaluation.

2. The legislative oversight bureau at the direction of the director shall independently examine state agencies and programs to determine the following:

a. The organizational framework of the agency, its adequacy and relationship to the overall structure of the state government.

b. Areas in which significant inconsistency, duplication, or overlapping of activities or programs occur either within the agency or with respect to other agencies or programs.

c. Statewide or interagency coordinating or administration practices and their impact upon specific programs or agencies.

d. Whether the program under the agency's jurisdiction could be more effective if consolidated with another program, transferred to another agency, modified or abolished.

e. The productivity of the agency's operations measured in terms of cost-benefit relationships or other accepted measures of effectiveness.

f. The agency's attainment of or progress toward identifiable goals established by statute, specific legislative intent, the budget, the governor, or a long range plan.

g. Agency and statewide management systems and housekeeping functions including accounting procedures, personnel practices, planning activities, reporting and recordkeeping applications, staff qualifications, employment ratios, budget controls, purchasing transactions, communications patterns, public relations, and other related functions.

h. Agency or statewide administrative or program delivery techniques which are innovative, novel, experimental or unique in achieving greater efficiency, reduced costs, improved use of resources or increased responsiveness to expressed or anticipated needs.

i. Agency or statewide state-federal relationships, financial exchanges, program coordination, administration and other joint activities.

j. Agency and program relationships between the state

and its political subdivisions analyzing significant areas of state and local government contact and identifying mutual or opposing program directions and areas of duplicatory or overlapping programs.

k. The agency's or program's adherence to statutory requirements and diligence in executing functions assigned by law or policies established by the governor.

l. The agency's or program's responsiveness to anticipated public attitudes, citizen needs, or state problems.

m. The statewide, agency or program regulatory, reporting or recordkeeping requirements and the burdens imposed upon the general public, political subdivisions, commercial enterprise or other entities in the state.

n. Whether the financial operations of the agency or program are properly conducted, its financial reports are presented fairly, and whether the agency or program has complied with the applicable laws.

o. Whether the agency or program is managing or using its resources in an efficient and economical manner and if not, to determine the causes.

p. Whether the objectives established by the general assembly are being met, and whether alternatives which might produce the desired results at a lower cost have been considered.

q. Whether administrative or statutory changes are needed to achieve the intent of the general assembly.

r. Other criteria determined by the director.

3. The legislative service bureau, legislative fiscal bureau, auditor of state, state comptroller, and citizens' aide shall cooperate with the legislative oversight bureau in providing information which they may have concerning the agency or program to be evaluated. Employees of the legislative fiscal bureau may be interchanged with the legislative oversight bureau pursuant to chapter twenty-eight D (28D) of the Code.

4. The director shall maintain as a public record an index of all performance audit and program evaluation requests showing the requesting party, the subject agency and the date the request was made.

Sec. 7. NEW SECTION. REPORTS. At the conclusion of an audit or evaluation, the director of the legislative oversight bureau shall provide copies to the governor and to the official whose office is the subject of the audit or evaluation. The

official shall be given thirty days by the director to respond to the findings and recommendations of the audit or evaluation, and the response shall be included in the report. A summary of the findings and recommendations shall accompany each report. A report of an audit or evaluation initiated by the director shall be released upon its completion. A report of a requested audit or evaluation shall be submitted to the requesting party and released fifteen days after submission if the requesting party is a standing committee or budget subcommittee or ten days if the requesting party is other than a standing committee or budget subcommittee unless the requesting party directs an earlier release. The report shall be regarded as confidential by all persons properly having custody of it until the report is released as provided by this section. Upon the release of a report, the director shall provide copies to the presiding officer of each house of the general assembly for referral to the appropriate standing committee and budget subcommittee. At the conclusion of an audit or evaluation, the director shall report the total costs of conducting each audit including the total costs to the agency or program being audited as a part of the audit report.

Sec. 8. Section two point forty-two (2.42), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. To fix the compensation of the director of the legislative oversight bureau.

Sec. 9. Section two point forty-six (2.46), Code 1977, is amended by striking subsection four (4).

Sec. 10. This Act is repealed January 1, 1988.

Approved April 27, 1978

CHAPTER 1027

TRANSFER OF AGENCY FUNDS

H. F. 2420

AN ACT relating to the transfer of funds between state departments, institutions and agencies.

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

Section 1. Section eight point thirty-nine (8.39), Code 1977, is amended by adding the following new unnumbered paragraph after unnumbered paragraph two (2):

NEW UNNUMBERED PARAGRAPH. Prior to any transfer of funds pursuant to this section, the state comptroller shall notify the chairpersons of the standing committees on budget of the senate and the house of representatives and the chairpersons of subcommittees of such committees of the proposed transfer. The notice from the state comptroller shall include information concerning the amount of the proposed transfer, the departments, institutions or agencies affected by the proposed transfer and the reasons for the proposed transfer. Chairpersons notified shall be given at least two weeks to review and comment on the proposed transfer before the transfer of funds is made.

Approved June 20, 1978

CHAPTER 1028

I.P.E.R.S. APPROPRIATION

H. F. 2165

AN ACT appropriating funds for the administration of the Iowa public employees' retirement system and providing for a securities lending program and allocating funds appropriated by this Act for the administration of such program.

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

Section 1. There is appropriated from the Iowa public employees' retirement system fund for the fiscal year beginning July 1, 1978 and ending June 30, 1979 the sum of one million three hundred twenty thousand seven hundred seventy-eight (1,320,778) dollars, or so much thereof as necessary, for salaries, support, maintenance, investment expense, and miscellaneous purposes to pay the costs of the administration of the Iowa public employees' retirement system. Not more than thirty thousand (30,000) dollars may be expended by the treasurer of state from funds appropriated by this section to carry out the provisions of section two (2) of this Act. The remaining funds shall be available to the department of job service to carry out the administration of the system.

Sec. 2. Section twelve point eight (12.8), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The treasurer of state, following approval by the advisory investment board of the Iowa public employees' retirement system, may implement and engage in a program of lending securities in the Iowa public employees'

retirement system portfolio, except the lending of common stocks shall not be allowed. When securities are loaned as provided by this paragraph, the treasurer, in order to secure the loan and as a condition thereof, shall obtain from the borrower federal securities of at least equal to one hundred three percent of market value, and the relative value of the collateral to the loan shall be maintained. The treasurer of state shall include in the reports required by sections twelve point seventeen (12.17) and seventeen point three (17.3) of the Code, a review of the program including the fiscal impact of the program.

Approved April 27, 1978

CHAPTER 1029
CRIMINAL CODE AMENDMENTS

S. F. 2200

AN ACT making technical changes of a corrective nature to the new criminal code.

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

Section 1. Section eighteen point one hundred eighteen (18.118), Code 1977, is amended to read as follows:

18.118 PENALTY FOR PRIVATE USE. Any state officer or employee ~~found guilty of~~ violating the rules of the state vehicle dispatcher shall, ~~upon conviction, be fined not to exceed one hundred dollars or imprisoned not to exceed thirty days in the county jail~~ guilty of a simple misdemeanor.

Sec. 2. Section twenty-nine A point thirty-five (29A.35), Code 1977, is amended to read as follows:

29A.35 USE FOR MILITARY ONLY. All arms, clothing, equipment, and other military property furnished or issued by the federal government or the state or for which an allowance has been made, shall be used for military purposes only, and each officer and enlisted person upon being separated from the military forces of the state, or upon demand of the commanding officer, shall forthwith surrender such military property in the officer's or enlisted person's possession to said commanding officer. Any member of the national guard who shall neglect to return to the armory of the unit, or place in charge of the commanding officer of the organization

to which the member belongs, any arms, clothing, equipment, or other military property or portion thereof, belonging to the federal government or the state, upon being notified by said commanding officer to do so, shall be guilty of a serious misdemeanor.

Sec. 3. Section twenty-nine A point thirty-six (29A.36), Code 1977, is amended to read as follows:

29A.36 INJURY OR DESTRUCTION OF PROPERTY. Every person who shall willfully or wantonly injure or destroy any articles of arms, clothing, equipment, or other military property furnished or issued by the federal government or the state, and refuses to make good such injury or loss; or who shall sell, dispose of, secrete or remove the same with intent to sell or dispose of it, shall be ~~punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail for not more than four months, or by both such fine and imprisonment~~ guilty of a simple misdemeanor.

Sec. 4. Section twenty-nine A point thirty-eight (29A.38), Code 1977, is amended to read as follows:

29A.38 SERIOUS MISDEMEANORS. Any officer or enlisted person of the national guard who knowingly makes any false certificate of muster or false return of federal or state property or funds in the officer's or enlisted person's possession shall be guilty of a serious misdemeanor.

Sec. 5. Section twenty-nine A point thirty-nine (29A.39), Code 1977, is amended to read as follows:

29A.39 ~~EMBEZZLEMENT~~ THEFT. Any officer or enlisted person of the national guard who willfully neglects or refuses to apply all money, in the officer's or enlisted person's possession drawn from the state treasury, to the purpose for which such money was appropriated or who fails or refuses to account for or return any state or federal property or funds in the officer's or enlisted person's possession shall be guilty of ~~the crime of embezzlement by bailee and punished accordingly~~ theft.

Sec. 6. Section twenty-nine A point forty (29A.40), Code 1977, is amended to read as follows:

29A.40 FALSE WEARING OF UNIFORM. No member of the national guard shall wear the uniform thereof while not on duty without permission from competent authority. No person, firm, or corporation, other than a military organization or the members ~~of veterans~~ of such organizations organizing for the benefit of all its members, shall incorporate under the name of, or

adopt any trade name which embodies the name or designation, officially or generally recognized as the name of a military organization now or heretofore in existence, or any distinctive part of such name. Any person found guilty of a violation of any of the provisions of this section shall be ~~punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Any person who, without authority under the laws of the United States or of one of the states, wears the uniform of, or a distinctive part of the uniform of the armed forces of the United States, shall be guilty of a simple misdemeanor, ~~and shall be punished as provided in this section.~~

Sec. 7. Section twenty-nine A point forty-two (29A.42), Code 1977, is amended to read as follows:

29A.42 TRESPASS OR INTERFERENCE WITH OFFICIAL ACTS. Any person who shall trespass upon any military reservation, camp, or armory, in violation of the orders of the commander thereof, or officer charged with the responsibility therefor, ~~or shall be guilty of trespass and shall be punished as provided in section seven hundred sixteen point eight (716.8) of the Code Supplement.~~

Any person who shall molest, or interfere with any member of the national guard, in the discharge of his the member's duty, shall be guilty of a misdemeanor interference with official acts which is section seven hundred nineteen point one (719.1) of the Code Supplement. The commanding officer of such force may order the arrest of such person and cause ~~him~~ the person to be delivered to a peace officer or magistrate.

Sec. 8. Section twenty-nine A point forty-three (29A.43), Code 1977, is amended to read as follows:

29A.43 DISCRIMINATION PROHIBITED--LEAVE OF ABSENCE. No person, firm, or corporation, shall discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States because of ~~his~~ membership therein. No employer, or agent of any employer, shall discharge any person from employment because of being an officer or enlisted person of the military forces of the state, or hinder or prevent the officer or elected person from performing any military service such person may be called upon to perform by proper authority. Any member of the national guard or organized reserves of the armed forces of the United States ordered to temporary active duty

for the purpose of military training or ordered on active state service, shall be entitled to a leave of absence during the period of such duty or service from the member's private employment, other than employment of a temporary nature, and upon completion of such duty or service the employer shall restore such person to the position held prior to such leave of absence, or employ such person in a similar position, provided, however, that such person shall give evidence to the employer of satisfactory completion of such training or duty, and further provided that such person is still qualified to perform the duties of such position. Such period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. Any person violating any of the provisions of this section shall be ~~punished-by-a-fine-of not-to-exceed-one-hundred-dollars,-or-by-imprisonment-in-the county-jail-for-a-period-of-not-to-exceed-thirty-days~~ guilty of a simple misdemeanor.

Sec. 9. Section twenty-nine A point forty-four (29A.44), Code 1977, is amended to read as follows:

29A.44 ASSAULT ON GUARDSMAN. Whenever the national guard is called into service under proclamation of the governor for the performance of any duties contemplated in this chapter any person who willfully assaults, or fires at, or throws any dangerous missiles at, against, or upon any member or body of the national guard so engaged, or civil officer or other persons lawfully aiding or assisting them in the discharge of their duties, shall be ~~deemed guilty of a-felony and-upon-conviction-shall-be-imprisoned-in-the-state penitentiary-for-not-more-than-two-years~~ an aggravated misdemeanor.

Sec. 10. Section thirty-two point one (32.1), Code 1977, is amended to read as follows:

32.1 DESECRATION OF FLAG OR INSIGNIA. Any person who in any manner, for exhibition or display, shall place or cause to be placed, any word, figure, mark, picture, design, drawing, or any advertisement of any nature, upon any flag, standard, color, ensign, shield, or other insignia of the United States, or upon any flag, ensign, great seal, or other insignia of this state, or shall expose or cause to be exposed to public view, any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, upon which shall have

been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure, mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color, ensign, shield, or other insignia of the United States, or any such flag, ensign, great seal, or other insignia of this state, to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon, cast contempt upon, satirize, deride or burlesque, either by words or act, such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, or who shall, for any purpose, place such flag, standard, color, ensign, shield, or other insignia of the United States, or flag, ensign, great seal, or other insignia of this state, upon the ground or where the same may be trod upon, shall be deemed guilty of a simple misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days and shall also forfeit a penalty of fifty dollars for each such offense, to be recovered, with costs, in a civil action or suit in any court having jurisdiction.

Sec. 11. Section forty-three point one hundred nineteen (43.119), Code 1977, is amended to read as follows:

43.119 MISCONDUCT. Any party ~~committeeman~~ committee member or any primary election officer or public officer upon whom a duty is imposed by this chapter or by chapters herein made applicable, who shall willfully neglect to perform any such duty, or who shall willfully perform it in such a way as to hinder the objects thereof, or shall disclose to anyone, except as may be ordered by any court of justice, the manner in which a ballot may have been voted, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment guilty of a serious misdemeanor.

Sec. 12. Section eighty-eight point fourteen (88.14),

subsections five (5), six (6), and seven (7), Code 1977 Supplement, is amended to read as follows:

5. WILLFUL VIOLATIONS CAUSING DEATH. Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 88.5, or ~~of~~ any regulations prescribed pursuant to this chapter, and that violation caused death to any employee, shall, upon conviction, be ~~punished by a fine of not more than ten thousand dollars or by imprisonment for not more than six months or by both such fine and imprisonment~~ guilty of a serious misdemeanor; except that if the conviction is for a violation committed after a first conviction of such person, ~~punishment shall be by a fine of not more than twenty thousand dollars or by imprisonment of not more than one year, or by both such fine and imprisonment~~ the person shall be guilty of an aggravated misdemeanor.

6. ADVANCE NOTICE OF INSPECTIONS. Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the commissioner or ~~his~~ the ~~commissioner's~~ commissioner's designees, shall, upon conviction, be ~~punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

7. FILING FALSE DOCUMENTS. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be ~~punished by a fine of not more than ten thousand dollars, or by imprisonment of not more than six months, or by both such fine and imprisonment~~ guilty of a serious misdemeanor.

Sec. 13. Section eighty-eight A point ten (88A.10), subsection one (1), Code 1977 Supplement, is amended to read as follows:

1. Any person who operates an amusement device or ride, concession booth or related electrical equipment at a carnival or fair without having obtained a permit from the commissioner or who violates any order or rule issued by the commissioner under this chapter is guilty of a serious misdemeanor and ~~upon conviction, shall be subject to imprisonment in the county jail for not more than one year, or be subject to a fine not to exceed ten thousand dollars, or be subject to both such imprisonment and fine.~~

Sec. 14. Section one hundred twenty-three point forty-six (123.46), Code 1977, is amended to read as follows:

123.46 CONSUMPTION IN PUBLIC PLACES--INTOXICATION. It is unlawful for any person to use or consume alcoholic liquors or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related functions, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof, which provides teaching for any grade from kindergarten through grade twelve. Any person violating any provisions of this section shall be ~~fin~~ed not-to-exceed-one-hundred-dollars-or-sentenced-not-to-exceed thirty-days-in-the-county-jail guilty of a simple misdemeanor.

Sec. 15. Section one hundred twenty-three point ninety (123.90), Code 1977, is amended to read as follows:

123.90 PENALTIES GENERALLY. Unless other penalties are herein provided, any person, except a person under legal age, who violates any of the provisions of this chapter, or who makes a false statement concerning any material fact in submitting an application for a permit or license, shall be ~~punished-by-a-fine-of-not-more-than-one-thousand-dollars, or-by-imprisonment-in-the-county-jail-for-not-more-than-one year,-or-by-both-such-fine-and-imprisonment~~ guilty of a serious misdemeanor. Any person under legal age who violates any of the provisions of this chapter shall upon conviction be ~~punished-by-a-fine-not-to-exceed-one-hundred-dollars-or-by imprisonment-in-the-county-jail-not-to-exceed-thirty-days~~ guilty of a simple misdemeanor.

Sec. 16. Section one hundred fifty-five point thirty (155.30), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Any person who violates a provision of section one hundred fifty-five point twenty-nine (155.29) of the Code or who sells or offers for sale, gives away, or administers to another person any prescription drug shall be deemed-guilty of-violating-the-provisions-of-this-section-or-who-violates any-provisions-of-section-155-29-is guilty of a public offense and punished as provided below.

Sec. 17. Section one hundred sixty-seven point nineteen (167.19), Code 1977 Supplement, is amended to read as follows:
167.19 PENALTY.

The violation of any of the provisions of this chapter

or any rule adopted thereunder by the department shall be ~~guilty of~~ a simple misdemeanor.

Sec. 18. Section one hundred seventy-two C point eleven (172C.11), Code 1977, is amended to read as follows:

172C.11 PENALTIES--REPORTS. Willful failure to file a required report, or the willful filing of false information, is a ~~public offense--A person found guilty of violating this section shall be subject to a fine not to exceed one thousand dollars~~ serious misdemeanor.

Sec. 19. Section one hundred eighty-nine A point seventeen (189A.17), subsection five (5), paragraphs a, b, and unnumbered paragraph one (1) of paragraph d, Code 1977, is amended to read as follows:

a. Any person who neglects or refuses to attend and testify or to answer any lawful inquiry, or to produce documentary evidence, if it is in ~~his~~ the person's power to do so, in obedience to the subpoena or lawful requirement of the secretary shall be guilty of ~~an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment~~ a serious misdemeanor.

b. Any person who willfully makes, or causes to be made, any false entry or statement of fact in any report required to be made under this chapter, or who willfully makes, or causes to be made, any false entry in any account, record, or memorandum kept by any person subject to this chapter, or who willfully neglects or fails to make or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda, of all facts and transactions pertaining to the business of such person, or who willfully removes himself or herself from the jurisdiction of this state, or willfully mutilates, alters, or by any other means falsifies any documentary evidence of any person subject to this chapter or who willfully refuses to submit to the secretary or to any of ~~his~~ the secretary's authorized agents, for the purpose of inspection and taking copies, any documentary evidence of any person subject to this chapter in ~~his~~ the person's possession or ~~within his~~ control, shall be deemed guilty of ~~an offense and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not less than one thousand dollars nor more than five thousand dollars, or to~~

~~imprisonment-in-the-county-jail-or-the-penitentiary-for-a term-of-not-more-than-three-years,-or-to-both-such-fine-and imprisonment~~ aggravated misdemeanor.

Any officer or employee of this state who makes public any information obtained by the secretary, without ~~his~~ the secretary's authority, unless directed by a court, or uses any such information to ~~his~~ the officer's or employee's advantage, shall be deemed guilty of a serious misdemeanor, ~~and-upon-conviction-thereof-shall-be-punished-by-a-fine-not exceeding-five-thousand-dollars,-or-by-imprisonment-in-the county-jail-not-exceeding-one-year,-or-by-both-such-fine-and imprisonment.~~

Sec. 20. Section one hundred ninety-one point three (191.3), unnumbered paragraph three (3), Code 1977 Supplement, is amended to read as follows:

Any person violating any provision of this section shall be guilty of a simple misdemeanor, and the suspension person shall have all licenses issued by the state for the public eating place in which a violation occurred suspended for one year ~~of-all-licenses-issued-by-the-state-of-iowa-for-the public-eating-place-in-which-said-violation-occurred.~~

Sec. 21. Section one hundred ninety-six point fourteen (196.14), Code 1977, is amended to read as follows:

196.14 PENALTY. Any person ~~found-guilty-of-any-violation who violates a provision~~ of this chapter shall ~~upon-conviction for-the-first-offense,-be-fined-twenty-five-dollars,-for-the second-offense,-one-hundred-dollars,-and-for-the-third-and subsequent-offenses,-two-hundred-dollars~~ be guilty of a simple misdemeanor. In addition ~~to-such-fines~~, if the offender is a handler or a retailer, the court for the third offense shall suspend ~~his-or-her~~ the offender's license for thirty days; ~~and~~ for the fourth and any subsequent offense, such license shall be revoked for a period of one year.

Sec. 22. Section one hundred ninety-eight point thirteen (198.13), subsections four (4) and six (6), Code 1977 Supplement, is amended to read as follows:

4. The secretary may apply for and the court ~~to~~ may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule promulgated under the chapter notwithstanding the existence of other remedies of law. ~~Said~~ If granted, the injunction ~~to~~ shall be issued without bond.

6. Any person who uses to ~~his~~ the person's own advantage, or reveals to other than the secretary, or officers of the

department or to the courts when relevant in any judicial proceedings, any information acquired under the authority of this chapter, concerning any method, records, formulations or processes which as a trade secret is entitled to protection, is guilty of a serious misdemeanor ~~and shall on conviction thereof be fined not less than one hundred dollars or imprisoned for not less than six months, or both, provided that this.~~ This prohibition shall not be deemed as prohibiting the secretary, or ~~his~~ the secretary's duly authorized agent, from exchanging information of a regulatory nature with appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

Sec. 23. Section two hundred four point one hundred one (204.101), subsection one (1), paragraph b, unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Nothing contained in this chapter shall be construed to prevent a physician, dentist, podiatrist or veterinarian from delegating the administration of controlled substances under this chapter to a nurse, ~~or~~ intern, or other qualified individual, or, as to veterinarians, to an orderly or assistant, under his ~~or her~~ direction and supervision; all pursuant to rules adopted by the board.

Sec. 24. Section two hundred seventeen point thirty (217.30), subsection seven (7), Code 1977, is amended to read as follows:

7. Violation of this section shall constitute a serious misdemeanor ~~punishable by a fine not to exceed two thousand dollars or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.~~

Sec. 25. Section two hundred seventeen point thirty (217.30), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The provisions of this section shall take precedence over section seventeen A point twelve (17A.12), subsection seven (7), of the Code.

Sec. 26. Chapter three hundred five A (305A), Code 1977, is amended by adding the following new section:

NEW SECTION. AUTHORITY TO DENY PERMISSION TO DISINTER HUMAN REMAINS. The state archaeologist shall have the authority to deny permission to disinter human remains that he or she determines have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the people of the United States.

Sec. 27. Section three hundred twenty-one point ninety-seven (321.97), Code 1977 Supplement, is amended to read as follows:

321.97 FRAUDULENT APPLICATIONS.

Any person who fraudulently uses a false or fictitious name in any application for the registration of, or certificate of title to, a vehicle or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application is guilty of a fraudulent practice.

Sec. 28. Section three hundred twenty-one point one hundred eighty (321.180), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A permittee shall not be penalized for failing to have his or her permit in immediate possession if the permittee produces in court, within a reasonable time, an instruction permit issued to him or her and valid at the time of the permittee's arrest.

Sec. 29. Section three hundred twenty-one point one hundred eighty-nine (321.189), subsection three (3), Code 1977, is amended to read as follows:

3. CARRIED AND EXHIBITED. Every licensee shall have his or her operator's or chauffeur's, or motorized bicycle license or instruction permit in ~~his~~ immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a judicial magistrate or district associate judge, a peace officer, or a field deputy or examiner of the department. However, no person charged with violating this section shall be convicted if he or she produces in court, within a reasonable time, an operator's or chauffeur's or motorized bicycle license or instruction permit issued to him or her and valid at the time of ~~his~~ the person's arrest.

Sec. 30. Section three hundred twenty-one point two hundred sixty (321.260), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Any person who willfully and intentionally, without lawful authority, attempts to or in fact alters, defaces, injures, knocks down, or removes any official traffic-control device, any authorized warning sign or signal or barricade, whether temporary or permanent, any railroad sign or signal, any inscription, shield or insignia on any of such devices, signs, signals, or barricades, or any other part thereof, shall, upon conviction, be ~~punished by imprisonment in the county jail for not more than six months, or fined not more than~~

~~five-hundred-dollars, or by both such fine and imprisonment~~
guilty of a serious misdemeanor.

Sec. 31. Section three hundred twenty-one point three hundred eighty-three (321.383), subsection three (3), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Any person who violates any provision of this section shall be fined ~~not more than five dollars~~ as provided in section eight hundred five point eight (805.8), subsection two (2), paragraph d, of the Code Supplement.

Sec. 32. Chapter three hundred twenty-one (321), Code 1977, is amended by adding the following new section:

NEW SECTION. VEHICLES WITHOUT IDENTIFICATION NUMBERS.
Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his or her possession any vehicle, or any component part of a vehicle, from which the vehicle identification number or component part number has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of the vehicle or component part is guilty of a simple misdemeanor.

Sec. 33. Section three hundred twenty-eight point forty-one (328.41), unnumbered paragraph three (3), Code 1977 Supplement, is amended to read as follows:

Any person who operates any aircraft, while in an intoxicated condition or under the influence of narcotic drugs in violation of this section, shall, upon conviction or a plea of guilty, be punished guilty of a serious misdemeanor for the first offense ~~by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a period not to exceed one year, or by both such fine and imprisonment,~~ be guilty of an aggravated misdemeanor for the second offense ~~by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the penitentiary for a period of not to exceed one year, or by both such fine and imprisonment,~~ and be guilty of a class D felony for a third offense ~~by imprisonment in the penitentiary for a period not to exceed three years.~~

Sec. 34. Section four hundred fifty-two point five (452.5), Code 1977 Supplement, is amended to read as follows:

452.5 LOANS BY TREASURER OF STATE.

The treasurer of state shall be guilty of a serious misdemeanor for a like violation loaning out, or in any manner using for private purposes, state, county, or other funds

in the treasurer's hands.

Sec. 35. Section five hundred seven point sixteen (507.16), Code 1977 Supplement, is amended to read as follows:

507.16 UNLAWFUL SOLICITATION OF BUSINESS.

Any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, solicits insurance for said company, or receives applications therefor, or does any other act or thing toward receiving or procuring any new business for said company, shall be deemed guilty of a serious misdemeanor, and the provisions of said sections five hundred eleven point sixteen (511.16) of the Code Supplement and five hundred eleven point seventeen (511.17) of the Code are hereby extended to all companies contemplated by this chapter.

Sec. 36. Section five hundred seven A point ten (507A.10), Code 1977 Supplement, is amended to read as follows:

507A.10 PENALTIES.

Any unauthorized foreign or alien insurer who does any unauthorized act of an insurance business as set forth in this chapter shall be guilty of a fraudulent-practice serious misdemeanor.

Sec. 37. Section five hundred fifteen point one hundred twenty (515.120), Code 1977 Supplement, is amended to read as follows:

515.120 VIOLATIONS.

Any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, solicits insurance with said company or association, or receives applications therefor, or does any other act or thing towards procuring or receiving any new business for such company or association, shall be guilty of a fraudulent-practice serious misdemeanor.

Sec. 38. Section five hundred thirty-seven point five thousand three hundred one (537.5301), subsections three (3) and four (4), Code 1977 Supplement, is amended to read as follows:

3. A person who willfully and knowingly engages in the business of entering into consumer credit transactions, or of taking assignments of rights against consumers arising therefrom and undertaking direct collection of payments or enforcement of these rights, without complying with the provisions of this chapter concerning notification under

section 537.6202 or payment of fees under section 537.6203, is guilty of a simple misdemeanor ~~and-upon-conviction-may-be-sentenced-to-pay-a-fine-not-exceeding-one-hundred-dollars.~~

4. A person who willfully and knowingly violates the provisions of section 537.7103 is guilty of a serious misdemeanor ~~and-upon-conviction-may-be-sentenced-to-pay-a-fine-not-exceeding-one-thousand-dollars.~~

Sec. 39. Section six hundred point eight (600.8), subsection one (1), paragraph b, unnumbered paragraph one (1) and subsection two (2), paragraph a, Code 1977 Supplement, is amended to read as follows:

A postplacement investigation and a report of this investigation ~~and-a-report-of-this-investigation~~ shall:

a. A preplacement investigation and report of the investigation shall be completed and the prospective adoption petitioner approved for a placement by the person making the investigation prior to any agency or independent placement of a minor person in the petitioner's home in anticipation of an ensuing adoption. A report of a preplacement investigation that has approved a prospective adoption petitioner for a placement shall not authorize placement of a minor person with that petitioner after one year from the date of the report's issuance. However, if the prospective adoption petitioner is a stepparent or a relative within the fourth degree of consanguinity who has assumed custody of a minor person to be adopted, a preplacement investigation of this petitioner and a report of the investigation may be completed at a time established by the court or may be waived as provided in ~~section-6~~ subsection twelve (12) of this section.

Sec. 40. Section six hundred two point sixty-two (602.62), Code 1977 Supplement, is amended to read as follows:
602.62 PROCEDURE.

The criminal procedure before judicial magistrates shall be as provided in chapters 804, 806, 808, 811, and 820, and eight hundred twenty-one (821) of the Code Supplement, and rules 2 and 32 through 46, rules of criminal procedure. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 41. Section six hundred ninety-one point one (691.1), Code 1977 Supplement, is amended to read as follows:
691.1 LABORATORY CREATED.

There is hereby created under the control, direction and supervision of the commissioner of public safety a state

criminalistics laboratory. The commissioner of public safety may assign the criminalistics laboratory to a division or bureau within his or her department. The laboratory shall, within its capabilities, conduct analyses, comparative studies, fingerprint identification, firearms identification, questioned documents studies, and other studies normally performed by a criminalistics laboratory when requested by a county attorney, medical examiner, or law enforcement agency of this state to aid in any criminal investigation. Agents of the division of criminal investigation and bureau of identification may be assigned to the criminalistics laboratory by the commissioner. New employees shall be appointed pursuant to chapter 19A, and need not qualify as agents for the division of criminal investigation and bureau of identification, and shall not participate in the peace officers' retirement plan established pursuant to chapter 97A.

Sec. 42. Section six hundred ninety-one point nine (691.9), subsection one (1), Code 1977 Supplement, is amended to read as follows:

1. Ammunition and firearms which are stolen or embezzled or confiscated pursuant to a valid arrest or search warrant and for which lawful possession is not established or for which lawful title cannot be ascertained pursuant to ~~chapters 645-and~~ chapter 809 shall be forwarded to the state criminalistics laboratory for deposit by the law enforcement agency having possession of such items. Ammunition and firearms which were used in the perpetration or attempted perpetration of a criminal offense and are owned by the perpetrator of such offense shall be forfeited to the state, and shall be deposited with the state criminalistics laboratory if no longer required in a criminal action for evidentiary purposes. Ammunition and firearms forfeited shall become the property of the state.

Sec. 43. Section six hundred ninety-two point seventeen (692.17), Code 1977 Supplement, is amended to read as follows:
692.17 EXCLUSIONS.

Criminal history data in a computer data storage system ~~does~~ shall not include arrest or disposition data after the person has been acquitted or the charges dismissed.

Sec. 44. Section seven hundred two point seventeen (702.17), Code 1977 Supplement, is amended to read as follows:
702.17 SEX ACT.

The term "sex act" or "sexual activity" means any sexual contact between two or more persons, by penetration of the

penis into the vagina or anus, by contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person or by use of ~~artificial~~ artificial sexual organs or substitutes therefore in contact with the genitalia or anus.

Sec. 45. Section seven hundred three point five (703.5), subsection two (2), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

"High managerial agent" means an officer of the corporation, partner, or other agent in a position of comparable authority with respect to the formulation of policy or the ~~asupervision~~ supervision in a managerial capacity of subordinate employees.

Sec. 46. Section seven hundred four point twelve (704.12), Code 1977 Supplement, is amended to read as follows:

704.12 USE OF FORCE IN MAKING AN ARREST.

A peace officer or other person making an arrest or securing an arrested person may use such force as is permitted by sections ~~804.11 through 804.16~~ eight hundred four point eight (804.8), eight hundred four point ten (804.10), eight hundred four point thirteen (804.13), and eight hundred four point fifteen (804.15) of the Code Supplement.

Sec. 47. Section seven hundred nine point four (709.4), unnumbered paragraph one (1) and subsections one (1) and four (4), Code 1977 Supplement, are amended to read as follows:

Any sex act between persons who are not at the time cohabiting as husband and wife is sexual abuse in the third degree by ~~either-of-the-participants~~ a person when the act is performed with the other participant in any of the following circumstances:

1. Such act is done by force or against the will of the other participant.

4. The other person participant is fourteen or fifteen years of age ~~but-less-than-sixteen-years-of-age~~ and the defendant person is a member of the same household as the victim other participant, the defendant person is related to the victim other participant by blood or affinity to the fourth degree, or the defendant person is in a position of authority over the victim other participant and used this authority to coerce the victim other participant to submit.

Sec. 48. Section seven hundred nine point four (709.4), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The person is six or more years older than the other participant, and that other participant is fourteen or fifteen years of age.

Sec. 49. Section seven hundred ten point six (710.6), Code 1977 Supplement, is amended to read as follows:

710.6 VIOLATING CUSTODIAL ORDER.

Any relative of a child who, acting in violation of any order of any court which fixes, permanently or temporarily, the custody of such child in another, takes and removes such child ~~and removes him or her~~ from the state, and conceals the child's whereabouts without the consent of the person having lawful custody, commits a class D felony.

Any parent of a child living apart from the other parent who takes and conceals that child from another within the state in violation of a custodial order and without the other parent's consent shall be guilty of a serious misdemeanor.

Any parent of a child living apart from the other parent who conceals that child in violation of a court order granting visitation rights and without the other parent's consent, shall be guilty of a serious misdemeanor.

Sec. 50. Section seven hundred sixteen point five (716.5), Code 1977 Supplement, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person commits criminal mischief in the third degree who does either of the following:

1. Intentionally disinters human remains from a burial site without lawful authority.
2. Intentionally disinters human remains that have state and national significance from an historical or scientific standpoint for the inspiration and benefit of the United States without the permission of the state archaeologist.

Sec. 51. Section seven hundred fourteen point eight (714.8), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. Removes, defaces, covers, alters, or destroys any component part number as defined in section three hundred twenty-one point one (321.1), subsection seventy-four (74), of the Code or vehicle identification number as defined in section three hundred twenty-one point one (321.1), subsection seventy-five (75), of the Code for the purpose of concealing or misrepresenting the identity of the component part or vehicle.

Sec. 52. Section seven hundred fourteen point twenty-one

(714.21), Code 1977 Supplement, is amended to read as follows:
714.21 PENALTY.

Violation of any of the provisions of sections 714.17, 714.18, or 714.20 shall be ~~punishable-upon-conviction-by-a fine-not-exceeding-five-hundred-dollars-or-six-months-in-jail,~~ or-beth a serious misdemeanor.

Sec. 53. Section seven hundred twenty-one point six (721.6), Code 1977 Supplement, is amended to read as follows:
721.6 EXCEPTION TO SECTIONS 721.3 TO 721.5.

The provisions of sections 721.3 to 721.5, inclusive, shall not be construed as prohibiting any such officer or employee who is a candidate for political office to engage in campaign campaigning at any time or at any place for himself or herself.

Sec. 54. Section seven hundred twenty-five point nine (725.9), Code 1977 Supplement, is amended to read as follows:
725.9 POSSESSION OF GAMBLING DEVICES PROHIBITED.

~~No-one-shall;~~ A person who in any manner or for any purpose whatever, except under proceeding to destroy the same, ~~have;~~ keep,-or-hold has in possession or control any gambling device shall be guilty of a serious misdemeanor. The term "gambling device" means and includes every device used or adapted or designed to be used for gambling. Roulette wheels, klondike tables, ~~punchboards~~ punchboards, faro layouts, keno layouts, numbers tickets, slot machines, pinball machines, push cards, jar tickets and pull-tabs are gambling devices per se. The term "gambling device" does not include any device regularly manufactured and offered for sale and sold as a toy, except that any use of such a device for gambling purposes constitutes unlawful gambling.

Sec. 55. Section seven hundred twenty-five point ten (725.10), Code 1977 Supplement, is amended to read as follows:
725.10 POOL SELLING--PLACES USED FOR.

Any person who records or registers bets or wagers or sells pools upon the result of any trial or contest of skill, speed, or power of endurance of man or beast, or upon the result of any political nomination or election, and any person who keeps a place for the purpose of doing any such thing, and any owner, lessee, or occupant of any premises, who knowingly permits the same, or any part thereof, to be used for any such purpose, and anyone who, as custodian or depositary thereof, for hire or reward, receives any money, property, or thing of value staked, wagered, or bet upon any such result, shall be ~~fined-not-exceeding-one-thousand-dollars,-or imprisoned-in-the-county-jail-not-exceeding-one-year,-or-beth~~

guilty of a serious misdemeanor.

Sec. 56. Section seven hundred twenty-five point eleven (725.11), Code 1977 Supplement, is amended to read as follows:
725.11 BULLFIGHTS AND OTHER CONTESTS.

If any person keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, or engage in, aid, abet, encourage, or assist in any bull, bear, dog, or cock fight, or a fight between any other creatures, ~~he~~ the person shall be guilty of a serious misdemeanor.

Sec. 57. Section seven hundred twenty-five point fourteen (725.14), Code 1977 Supplement, is amended to read as follows:
725.14 PUNISHMENT FOR SECTION 725.13.

A violation of the provisions of section 725.13 shall be ~~punished by a fine not less than five nor exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days~~ a simple misdemeanor.

Sec. 58. Section seven hundred twenty-five point sixteen (725.16), Code 1977 Supplement, is amended to read as follows:
725.16 GAMBLING PENALTY.

A person who commits an offense declared in ~~sections 725.5 through 725.48~~ or chapter 99B to be a misdemeanor shall be guilty of a serious misdemeanor.

Sec. 59. Section seven hundred twenty-eight point four (728.4), Code 1977 Supplement, is amended to read as follows:
728.4 SALE OF HARD CORE PORNOGRAPHY.

Any person who knowingly sells or offers for sale material depicting a sex act involving sado-masochistic abuse, excretory functions, a child, or bestiality which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be guilty of a simple misdemeanor. Charges under this section may only be brought by a county attorney, or by the attorney general, ~~or a grand jury.~~

Sec. 60. Section seven hundred twenty-nine point one (729.1), Code 1977 Supplement, is amended to read as follows:
729.1 RELIGIOUS TEST.

Any violation of section 4, Article I of the Constitution of Iowa is hereby declared to be a serious misdemeanor.

Sec. 61. Section seven hundred twenty-nine point three (729.3), Code 1977 Supplement, is amended to read as follows:
729.3 PENALTY.

Any person, agency, bureau, corporation, or association that violates provisions of sections 729.1 and 729.2 shall be guilty of a simple misdemeanor ~~and upon conviction be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned not more than thirty days, or by both such fine and imprisonment.~~

Sec. 62. Section seven hundred twenty-nine point four (729.4), subsection three (3), Code 1977 Supplement, is amended to read as follows:

3. Any person, employer, labor union or organization or officer of a labor union or organization convicted of a violation of subsections 1 or 2 shall be ~~punished by a fine not to exceed one hundred dollars or imprisonment in the county jail not to exceed thirty days~~ guilty of a simple misdemeanor.

Sec. 63. Section seven hundred thirty point one (730.1), Code 1977 Supplement, is amended to read as follows:
730.1 PUNISHMENT.

If any person, agent, company, or corporation, after having discharged any employee from ~~his or its~~ service, shall prevent or attempt to prevent, by word or writing of any kind, such discharged employee from obtaining employment with any other person, company, or corporation, except by furnishing in writing on request a truthful statement as to the cause of ~~his~~ the person's discharge, such person, agent, company, or corporation shall be ~~punished by a fine not exceeding five hundred nor less than one hundred dollars,~~ guilty of a serious misdemeanor and shall be liable for all damages sustained by any such person.

Sec. 64. Section seven hundred thirty point three (730.3), Code 1977 Supplement, is amended to read as follows:
730.3 FALSE CHARGES CONCERNING HONESTY.

Every person who shall by any letter, mark, sign, or designation whatever, or by any verbal statement, falsely and without probable cause, report to any railroad or any other company or corporation, or to any person or firm, or to any of the officers, servants, agents, or employees of any such corporation, person, or firm, that any conductor, brakeman, engineer, fireman, station agent, or any employee of such railroad company, corporation, person, or firm has received any money or thing of value for the transportation

of persons or property or for other service for which he the person has not accounted to such corporation, person, or firm, or shall falsely and without probable cause report that any conductor, brakeman, engineer, fireman, station agent, or other employee of any railroad company, corporation, firm, or person, neglected, failed, or refused to collect any money or ticket for transportation of persons or property or other service when it was their duty so to do, shall, on conviction, be adjudged guilty of a simple misdemeanor, ~~and upon conviction thereof shall be fined in a sum not exceeding one hundred dollars or be imprisoned in the county jail for a period not exceeding thirty days.~~

Sec. 65. Section seven hundred thirty-one point six (731.6), Code 1977 Supplement, is amended to read as follows:
731.6 PENALTY.

Any person, firm, association, labor organization, or corporation or any director, officer, representative, agent or member thereof, who shall violate any of the provisions of this chapter or who shall aid and abet in such violation shall be deemed guilty of a serious misdemeanor.

Sec. 66. Section seven hundred thirty-two point four (732.4), Code 1977 Supplement, is amended to read as follows:
732.4 PENALTY.

Any person, or any labor union, labor association or labor organization or any officer, representative, agent or member thereof who shall violate any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor ~~and shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail for a period of not more than thirty days.~~

Sec. 67. Section eight hundred one point four (801.4), subsection eleven (11), Code 1977 Supplement, is amended to read as follows:

11. "Complaint" means a statement in writing, under oath or affirmation, made before a magistrate or district court clerk or clerk's deputy as the case may be, of the commission of a public offense, and accusing someone thereof. A complaint shall be substantially in the form provided in the Iowa rules of criminal procedure.

Sec. 68. Section eight hundred four point one (804.1), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

Whenever the complaint charges a simple misdemeanor, the magistrate may ~~in his or her discretion~~ issue a citation

instead of a warrant of arrest. The citation shall set forth substantially the nature of the offense and shall command the person against whom the complaint was made to appear before the magistrate issuing the citation at a time and place stated therein.

Sec. 69. Section eight hundred four point twenty-three (804.23), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The officer shall, without unnecessary delay, take the person arrested pursuant to section ~~804.8~~ eight hundred four point eleven (804.11) of the Code Supplement before the nearest or most accessible magistrate to the place where the arrest occurred.

Sec. 70. Section eight hundred five point six (805.6), subsection one (1), paragraph c, unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Unless the officer issuing the citation arrests the alleged offender, or permits admission or requires submission of bail as provided in section 805.9, subsection 3, the officer shall enter in the blank contained in the statement required by paragraph "a b" of this subsection one of the following amounts and shall require the person to sign the written appearance:

Sec. 71. Section eight hundred five point eight (805.8), subsection two (2), paragraph b, Code 1977 Supplement, is amended to read as follows:

b. For registration violations under sections 321.17, 321.32, 321.34, 321.37, 321.38, 321.41, and ~~324.490~~ subsection three (3) of section three hundred twenty-one point one hundred eighty-nine (321.189) of the Code, the scheduled fine is five dollars. For violations of ~~section-324.490~~ subsection three (3) of section three hundred twenty-one point one hundred eighty-nine (321.189) of the Code, the case shall be dismissed without imposition of fine or costs if a license valid at the time of the issuance of the citation is presented by the defendant to the magistrate or scheduled violations office.

Sec. 72. Section eight hundred eleven point one (811.1), Code 1977 Supplement, is amended to read as follows:

811.1 BAILABLE AND NONBAILABLE OFFENSES.

All defendants are bailable both before and after conviction, by sufficient surety, or subject to release upon condition or on their own recognizance, except that a defendant convicted of a class A felony shall not be admitted to bail while appealing such conviction ~~or seeking post-conviction relief~~.

Sec. 73. Section eight hundred eleven point five (811.5), Code 1977 Supplement, is amended to read as follows:

811.5 BAIL ON APPEAL.

After conviction, upon appeal to the supreme appellate court, the defendant must be admitted to bail, if it be from the judgment imposing a fine, upon the undertaking of bail that the defendant will, in all respects, abide the orders and the judgment of the supreme appellate court upon appeal; if from a judgment of imprisonment, except as provided in section 811.1 upon the undertaking of bail that the defendant will surrender ~~himself-or-herself~~ in execution of the judgment and direction of the supreme appellate court, and in all respects abide the orders and judgment of the supreme appellate court upon the appeal. Such bail may be taken, either by the court where the judgment was rendered, or the district court of the county in which the defendant is imprisoned, or by the supreme appellate court, or a judge or clerk of any of such courts. Provided, that in lieu of bail, bailable defendants as described herein may be released in accordance with the provisions of section 811.2.

Sec. 74. Section eight hundred fourteen point five (814.5), subsection two (2), paragraph a, Code 1977 Supplement, is amended to read as follows:

a. An order quashing dismissing an arrest or search warrant.

Sec. 75. Section eight hundred fifteen point seven (815.7), Code 1977 Supplement, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district judge court, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. Such attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so his or her fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class

A felony cases, two may be authorized.

Sec. 76. Section eight hundred twenty point eleven (820.11), Code 1977 Supplement, is amended to read as follows:
820.11 PENALTY FOR WILLFUL DISOBEDIENCE.

Any officer who shall deliver to the agent for extradition of the demanding state a person in ~~his~~ the officer's custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a simple misdemeanor ~~and, on conviction, shall be fined not more than one hundred dollars or be imprisoned not more than thirty days.~~

Sec. 77. Section eight hundred twenty point seventeen (820.17), Code 1977 Supplement, is amended to read as follows:
820.17 DISCHARGE OR RECOMMITMENT.

If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge ~~him or may recommit him~~ or recommit the accused for a further period not to exceed sixty days, or a judge or magistrate ~~judge~~ may again take bail for ~~his~~ the accused's appearance and surrender, as provided in section 820.16, but within a period not to exceed sixty days after the date of such new bond.

Sec. 78. Section eight hundred twenty-one point four (821.4), Code 1977 Supplement, is amended to read as follows:
821.4 HABITUAL CRIMINALS.

Nothing in this chapter or in the agreement on detainers shall be construed to require the application of ~~chapter-747~~ section nine hundred two point eight (902.8) of the Code Supplement to any person on account of any conviction had in a proceeding brought to final disposition by reason of the use of this agreement.

Sec. 79. Section nine hundred one point two (901.2), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

The court may withhold execution of any judgment or sentence for such time as shall be reasonably necessary for an investigation with respect to deferment of judgment, deferment of sentence, or suspension of sentence and probation. The investigation shall be made by the judicial district department of correctional services.

Sec. 80. Section nine hundred one point four (901.4), Code 1977 Supplement, is amended to read as follows:
901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL.

The court may, in its discretion, make the presentence investigation report or parts of it available to the defendant,

or the court may make the report or parts of it available while concealing the identity of the person who provided confidential information. The report of any medical examination or psychiatric evaluation shall be made available to the attorney for the state and to the defendant upon request. Such reports shall be part of the record but shall be sealed and opened only on order of the court. In any case where the defendant is committed to the custody of the division of adult corrections and is not a class A felon, a copy of the presentence investigation report shall be sent to the director at the time of commitment.

Sec. 81. Section nine hundred one point five (901.5), Code 1977 Supplement, is amended by adding the following new subsections:

NEW SUBSECTION. If authorized by section nine hundred seven point three (907.3) of the Code Supplement, the court may defer the sentence and assign the defendant to the judicial district department of correctional services.

NEW SUBSECTION. The court may pronounce judgment and sentence the defendant to confinement and then reconsider the sentence as provided by section nine hundred two point four (902.4) or nine hundred three point two (903.2) of the Code Supplement.

Sec. 82. Section nine hundred two point one (902.1), Code 1977 Supplement, is amended to read as follows:

902.1 CLASS A FELONY.

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a class A felony may be rendered, the court shall enter a judgment of conviction and shall commit the defendant into the custody of the director of the division of adult corrections for the rest of ~~his-er-her~~ the defendant's life. Nothing in the Iowa corrections code pertaining to deferred judgment, deferred sentence, suspended sentence, or probation reconsideration of sentence shall apply to a class A felony, and no person convicted of a class A felony shall be released on parole unless the governor commutes the sentence to a term of years.

Sec. 83. Section nine hundred two point six (902.6), Code 1977 Supplement, is amended to read as follows:

902.6 RELEASE.

A person who has been committed to the custody of the director of the division of adult corrections shall remain in such custody until ~~his-er-her-release~~ released by the order of the board of parole, in accordance with the law governing

paroles, or by order of the judge after reconsideration of a felon's sentence pursuant to section nine hundred two point four (902.4) of the Code Supplement, or until the maximum term of the person's confinement, as fixed by law, has been completed.

Sec. 84. Section nine hundred seven point three (907.3), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

Pursuant to section 901.5, the trial court may, upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, exercise either any of the options contained in subsections 1 and 2 of this section. However, this section shall not apply to a forcible felony or a violation of section 204.401, subsection 1 or 2, to which section 204.409, subsection 2 is not applicable and which is not proved to be an accommodation offense under section 204.410.

Sec. 85. Section nine hundred seven point four (907.4), Code 1977 Supplement, is amended to read as follows:
907.4 DEFERRED JUDGMENT DOCKET.

Any deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the supreme court administrator who shall maintain a permanent record thereof including the name of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this section shall constitute a confidential record exempted from public access under section 68A.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates requesting information pursuant to this section or the designee of such justice, judge, or magistrate.

Sec. 86. Section nine hundred seven point five (907.5), Code 1977 Supplement, is amended to read as follows:
907.5 STANDARDS FOR RELEASE ON PROBATION--WRITTEN REASONS.

Before deferring judgment, deferring sentence, or suspending sentence, the court first shall determine which option, if available, will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making

this determination the court shall consider the age of the defendant; the defendant's prior record of convictions and prior record of deferments of judgment if any; the defendant's employment circumstances; the defendant's family circumstances; the nature of the offense committed; and such other factors as are appropriate. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment, to defer sentence, or to suspend sentence, and its decision on the length of probation.

Sec. 87. Section nine hundred seven point seven (907.7), unnumbered paragraph two (2), Code 1977 Supplement, is amended to read as follows:

The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

Sec. 88. Section nine hundred seven point twelve (907.12), subsection one (1), paragraph c, and subsection three (3), Code 1977 Supplement, is amended to read as follows:

c. "Criminal activities" includes any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered and any other crime committed after July 1, 1972 which is admitted or not contested by the defendant, whether or not prosecuted. However, "criminal activities" does not include simple misdemeanors under chapter 321.

3. If the trial court exercises ~~either~~ any of the sentencing options under section 907.3, the court shall require as a condition of probation that the defendant, in cooperation with the probation officer assigned to the defendant, promptly prepare a plan of restitution, including a specific amount of restitution to each victim and a schedule of restitution payments. If the defendant is presently unable to make any restitution but there is a reasonable possibility that the defendant may be able to do so at some time during ~~his-er~~ her the probation period, the plan of restitution shall also state the conditions under which or the event after which the defendant will make restitution. If the defendant believes that ~~he-er-she~~ the defendant will not be able to make any

restitution, the defendant shall so state and shall specify the reasons. If the defendant believes that no person suffered pecuniary damages as a result of the defendant's criminal activities, ~~he-or-she~~ the defendant shall so state.

Sec. 89. Section one hundred nine point one hundred nineteen (109.119), Code 1977, is repealed.

Sec. 90. Section two hundred forty-five point twenty-one (245.21), Code 1977 Supplement, is repealed.

Sec. 91. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter four (4), section four hundred eighty-nine (489), is amended to read as follows:

SEC. 489. Section six hundred two point sixty-two (602.62), Code 1975, is amended to read as follows:

602.62 PROCEDURE. The criminal procedure before judicial magistrates shall be as provided in ~~chapters-754, 754-to-763, 765, 766, and-768~~ chapter ~~one-(1)~~ two (2), divisions four (IV), six (VI), eight (VIII), eleven (XI) of this Act, rules two (2) and thirty-two (32) through forty-six (46), rules of criminal procedure, and chapter seven hundred fifty-nine (759) of the Code. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 92. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter sixty-six (66), is amended by striking section **nine (9)***.

Sec. 93. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-seven (87), section one (1), unnumbered paragraph one (1), is amended to read as follows:

It is the intent of this Act that there be made available within the state correctional institutions opportunities for employment of inmates in meaningful jobs ~~at wages commensurate with those paid persons employed in similar jobs outside the correctional institutions~~, with the following objectives:

Sec. 94. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-seven (87), section ten (10), subsection three (3), is amended to read as follows:

3. Except as prohibited by applicable provisions of the United States Code, inmates of adult correctional institutions of this state may be employed in the manufacture and processing of products for introduction into interstate or intrastate commerce, so long as they are paid ~~no less than the prevailing minimum wage~~ wages commensurate with those paid persons employed in similar jobs outside the correctional institutions.

Sec. 95. Acts of the Sixty-seventh General Assembly, 1977

*See section 4.1(1) of the Code

Session, chapter eighty-seven (87), section twelve (12), is amended to read as follows:

SEC. 12. Effective July 1, 1978, and notwithstanding any other provisions of this Act, goods made available by Iowa State Industries shall be restricted to items, materials, supplies and equipment which are formulated and/or manufactured by Iowa State Industries and shall not include goods, materials, supplies or equipment which are merely purchased by Iowa State Industries for repacking or resale except with approval of the state director when such repacking for resale items are directly related to product lines.

Sec. 96. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred fifty-four (154), is amended by striking section thirty-one (31).

Approved June 13, 1978

CHAPTER 1030

DIVISION OF RISK MANAGEMENT

H. F. 545

AN ACT relating to the management of loss and loss exposures of government.

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

Section 1. NEW SECTION. DEFINITIONS. As used in the Act, unless the context otherwise requires:

1. "Department" means the department of general services.
2. "Division" means the division of risk management created by section three (3) of this Act.
3. "Insurance coverage" means any contract whereby loss exposure or risk exposure is transferred to or shared by an insurer.
4. "Governmental subdivision" means and includes a city, county, township, school district, area education agency, area vocational school, area community college, and entities created by agreement under chapter twenty-eight E (28E) of the Code. The term does not include any unit or agency of state government.

Sec. 2. NEW SECTION. SCOPE OF ACT. This Act applies to all property and casualty loss exposures, but does not apply to any exposure covered by life, accident and health, or workers compensation insurance, and does not apply to any retirement plan or system.

This Act shall not apply to the loss and loss exposures of the state board of regents or the state department of transportation until July 1, 1980. Commencing July 1, 1980, the duties of the department of general services under this Act shall extend to and encompass the personnel and property of the state board of regents and the state department of transportation in the same manner and to the same extent as other agencies of state government. This Act shall not apply to loss and loss exposures for revenue producing facilities under the state board of regents which are required to carry insurance under a bond covenant.

Sec. 3. NEW SECTION. RISK MANAGEMENT DIVISION. There is created within the department of general services a division of risk management which shall be the agency which administers this Act. The division shall be supervised by a risk manager who shall be appointed and subject to removal by the director of the department of general services.

Sec. 4. NEW SECTION. PERSONNEL. The director of the department shall employ a risk manager and such other permanent full-time personnel as shall be necessary to administer this chapter. All permanent full-time personnel other than the risk manager shall be subject to chapter nineteen A (19A) of the Code. The director is authorized to hire as independent contractors such other persons as may be necessary to assist the risk manager in establishing standards and procedures under this Act.

Sec. 5. NEW SECTION. DUTIES OF DIVISION.

1. The risk management division shall have the following continuing duties, with respect to loss and loss exposures of state government:

- a. To develop and maintain loss and exposure data on all state property and liability risks;
- b. To develop risk reduction or elimination programs;
- c. To determine which risk exposures shall be insured and which risk exposures shall be self-insured or assumed by the state;
- d. To review the insurance purchasing practices of the state;
- e. To establish standards for the purchase of necessary insurance coverage at the lowest costs, consistent with good underwriting practices and sound risk management techniques; and
- f. To recommend to the general assembly such legislation

as may be necessary from time to time to carry out the purposes of this Act.

2. The division may develop programs for the management of loss and loss exposures of governmental subdivisions which may include, but shall not be limited to, the following:

- a. To assist subdivisions in the development and maintenance of loss and loss exposure data on property and liability risks of governmental subdivisions;
- b. To recommend risk reduction or risk elimination programs to governmental subdivisions;
- c. To recommend to governmental subdivisions those practices which will permit protection against losses at the lowest costs, consistent with good underwriting practices and sound risk management techniques;
- d. To negotiate or acquire insurance coverage for governmental subdivisions, subject to the limitations contained in this Act; and
- e. To recommend to the general assembly and governmental subdivisions, such changes in statutes, ordinances and policies as might be necessary to enable governmental subdivisions to develop and implement risk management programs.

Sec. 6. NEW SECTION. GUIDELINES.

1. The risk management division shall carry out its duties relating to state government loss and risk exposures pursuant to the following guidelines:

- a. To the extent possible, all insurance coverage which is purchased for vehicles owned by the state shall be under fleet policies.
- b. Bonding of state employees shall be reevaluated, and uniform standards shall be adopted for the purchase of all fidelity bonds recommended for state employees. To the extent possible, all bonded state employees shall be covered under one or more blanket bonds or position schedule bonds.
- c. The management of state property loss exposures and state liability risk exposures shall be accomplished for state government as a whole, and without regard to the branch of government or the agency within which the loss exposure or risk exposure arises, except that the state board of regents shall share in the management of property loss exposures and liability risk exposures involving institutions under the jurisdiction of the board.
- d. Insurance coverage may include any type of insurance protection sold by insurers, including but not limited to, full coverage, partial coverage, co-insurance, reinsurance,

and deductible insurance.

2. The division may develop programs relating to governmental subdivisions which shall be subject to the following guidelines:

a. Participation by a governmental subdivision in any risk management program offered by the division shall be on a voluntary basis.

b. The division shall not be required to negotiate or purchase insurance coverage for any governmental subdivision, as permitted by this Act, which fails to comply with standards adopted by the division.

c. Risk management programs may treat loss and risk exposures of governmental subdivisions individually, or on a group basis, or both.

Sec. 7. NEW SECTION. PURCHASE OF INSURANCE.

1. The department shall be the exclusive contracting agency for the purchase of insurance coverage for state loss and risk exposure except for revenue producing facilities under the state board of regents which have to comply with bond covenants and, further provided that any contract for insurance coverage for loss and risk exposure affecting any institution under the jurisdiction of the state board of regents.

2. The department may negotiate with insurers on behalf of governmental subdivisions for the purchase of insurance coverage.

3. The department may purchase such contracts of insurance, and may contract with such insurers, as are within the standards prescribed by the risk management division. Funding for the purchase of insurance shall be provided by a specific and separate appropriation provided solely for this purpose.

4. The department may acquire insurance coverage on behalf of one or more governmental subdivisions. Any insurance contract negotiated by the department may include coverage or coverages for state loss or risk exposures and for the loss or risk exposures of one or more governmental subdivisions, or for any combination thereof.

5. The director of the department of general services may act as attorney in fact under section five hundred twenty point two (520.2) of the Code for governmental subdivisions executing reciprocal or interinsurance contracts under chapter five hundred twenty (520) of the Code.

6. The department of general services shall not charge governmental subdivisions for risk management services.

However, the department shall not expend state funds for the purchase of insurance coverage for any governmental subdivision.

Sec. 8. NEW SECTION. EXECUTIVE COUNCIL SUPERVISION. All standards adopted by the division under this Act shall be subject to review and disapproval by the executive council. However, each standard proposed by the division shall be effective on the date specified in the standard unless specifically disapproved by the executive council within thirty days after a copy of the proposed standard is delivered to the secretary of the executive council.

Sec. 9. NEW SECTION. ACCESS TO STATE RECORDS. The division shall be given full assistance and cooperation by every state agency and its officers and employees. Each agency shall provide to the division all requested loss and loss exposure information, and shall comply with all standards and directives of the division and of the department relating to the administration of this Act except as herein provided.

Sec. 10. Section five hundred twenty point one (520.1), Code 1977, is amended to read as follows:

520.1 AUTHORIZATION. Individuals, partnerships, and corporations, ~~including-independent-school-districts-and-municipal-corporations,~~ and cities, counties, townships, school districts and any other units of local government of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or interinsurance contracts with each other, and with individuals, partnerships, and corporations of other states, territories, districts, and countries, providing insurance among themselves from any loss which may be insured against under the law, except life insurance.

Sec. 11. The division shall commence the duties specified in this Act with respect to loss and loss exposures of state government as soon as practicable after the effective date of this Act. The division shall submit to the general assembly convening in January of 1980 a report containing the findings and recommendations of the division, and containing any standards adopted after the effective date of this Act, and containing recommendations for those statutory changes which are necessary to implement or to permit the implementation of standards proposed by the division.

The division shall include a summary of its annual costs of operation, the risks covered and the premiums paid in this report.

It is the intent of this Act that standards adopted by the division shall be subject to any limitations contained in the laws of this state as they exist on and after the effective date of this Act. Nothing contained in this Act shall be deemed to amend or repeal any law of this state relating to the insuring of the state or its agencies against risks, and nothing contained in this Act shall be deemed to delegate to the division or any other person the power to amend or repeal any such law.

The division may commence the development of programs relating to governmental subdivisions at any time in the discretion of the director of the department, provided that the duties of the division with respect to state government shall be given priority over other functions of the division.

Approved June 22, 1978

CHAPTER 1031

CAPITOL PLANNING COMMISSION

H. F. 32

AN ACT relating to the membership, terms of office, and organization of the capitol planning commission.

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

Section 1. Section eighteen A point one (18A.1), Code 1977, is amended to read as follows:

18A.1 COMMISSION CREATED. There is hereby created the capitol planning commission composed of ~~nine~~ eleven members: (1) four members of the general assembly serving as ex officio nonvoting members, two thereof to be appointed by the speaker of the house from the membership thereof, two to be appointed by the lieutenant governor from the membership of the senate, and (2) ~~three~~ six residents of the state of Iowa to be appointed by the governor, and (3) the director of the department of general services or his designee ~~and-the-state architect-provided-by-section-248-58.~~

Sec. 2. Section eighteen A point two (18A.2), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

18A.2 TERMS OF OFFICE.

1. The members of the commission who are appointed by the governor shall be appointed to four-year terms of office and until their successors are appointed, three terms of which shall expire every two years. Vacancies shall be filled by appointment of the governor for the unexpired term of the original appointee.

2. The legislative members of the commission shall be appointed to four-year terms of office, two of which shall expire every two years unless sooner terminated by ceasing to be members of the general assembly. Vacancies shall be filled by appointment of the speaker of the house or the lieutenant governor, as the case may be, for the unexpired term of their predecessors.

3. The term of office of each appointive member of the commission shall begin on the first of May of the odd-numbered year in which the member is appointed.

Sec. 3. Section eighteen A point three (18A.3), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission shall annually report to the general assembly its recommendations relating to its duties under this section. The report shall be submitted to the chief clerk of the house and the secretary of the senate during the month of January.

Sec. 4. Section eighteen A point four (18A.4), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

18A.4 ORGANIZATION. The commission shall organize biennially by election of a chairperson from its membership. The director of the department of general services or the designee of the director shall serve as secretary to the commission.

Sec. 5. Section eighteen A point five (18A.5), Code 1977, is amended to read as follows:

18A.5 COMPENSATION AND EXPENSES. The members of the commission shall be reimbursed for their actual and necessary expenses and shall be paid a forty-dollar per diem while in attendance at any meeting of the commission held at the seat of government and shall be reimbursed for their expenses for going to and from the seat of government to attend a meeting. All per diem and expense moneys paid to the nonlegislative commissioners shall be paid from funds appropriated to the commission. Service of the director of the department of general services ~~and the state architect~~ upon this commission shall be an additional duty conferred by statute. Legislative

members of the commission shall receive payment pursuant to section 2.10 and section 2.12 of the Code.

Sec. 6. APPOINTMENTS TO NEW OFFICES. Two of the three members who are appointed by the governor to the new offices created under section one (1) of this Act shall be appointed to four-year terms and the third member shall be appointed to an initial term of two years. The remaining appointive members of the commission shall serve their unexpired terms unless they become otherwise disqualified.

Approved April 21, 1978

CHAPTER 1032

PUBLIC EMPLOYMENT COLLECTIVE BARGAINING

S. F. 2124

An Act relating to binding arbitration and to establish dates for receipt of impasse services in public employment collective bargaining negotiations.

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

Section 1. Notwithstanding the provisions of subsection one (1) of section twenty point twenty-two (20.22) of the Code for negotiations on collective bargaining agreements effective for the 1978-1979 fiscal year and for those public employers and certified employee organizations who have requested impasse procedures by April 15, 1978, the board shall upon request of either party have the power to arrange for arbitration which shall be final and binding on both parties. The definitions listed in section twenty point three (20.3) of the Code shall apply to this section.

This Act shall not render moot any litigation filed in the supreme court of Iowa prior to March 1, 1978, regarding the availability of impasse services under chapter twenty (20) of the Code.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Nevada Evening Journal, a newspaper published in Nevada, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

Approved March 14, 1978

I hereby certify that the foregoing Act, Senate File 2124, was published in The Nevada Evening Journal, Nevada, Iowa on March 16, 1978, and in The Sioux City Journal, Sioux City, Iowa on March 20, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1033
COUNTY CONSERVATION FUND

S. F. 2115

AN ACT authorizing the temporary transfer of money from the general fund of the county to the county conservation fund to match federal funds.

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

Section 1. Section twenty-four point twenty-two (24.22), Code 1977, is amended to read as follows:

24.22 TRANSFER OF ACTIVE FUNDS--POOR FUND. Upon the approval of the state board, it shall be lawful to make temporary or permanent transfers of money from one fund of the municipality to another fund thereof; but in no event shall there be transferred for any purpose any of the funds collected and received for the construction and maintenance of secondary roads. The certifying board or levying board, as the case may be, shall provide that money temporarily transferred shall be returned to the fund from which it was transferred within such time and upon such conditions as the state board shall determine, provided that it shall not be necessary to return to the emergency fund, or to any other fund no longer required, any money transferred therefrom to any other fund. However, the board of supervisors may temporarily transfer any unobligated funds from the county general fund to the county conservation fund without approval of the state board as provided in section one hundred eleven A point six (111A.6) of the Code. No transfer shall be made to a poor fund unless there is a shortage in said fund after the maximum permissible levy has been made for said fund.

Sec. 2. Section one hundred eleven A point six (111A.6), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

111A.6 FUNDS--TAX LEVY--GIFTS--ANTICIPATORY BONDS. Upon the adoption of any county of the provisions of this chapter,

the county board of supervisors of such county may by resolution appropriate an amount of money from the general fund of the county for the payment of expenses incurred by the county conservation board in carrying out its powers and duties, ~~and it~~. The board of supervisors may temporarily transfer by resolution, any unobligated funds from the general fund of the county to the county conservation fund in anticipation of or to match committed receipts of federal funds from the Heritage Conservation and Recreation Service. The transferred funds shall be returned to the general fund of the county within such time not to exceed five (5) years as specified by the board of supervisors or upon receipt of the federal funds, whichever date is earlier. The board of supervisors may levy or cause to be levied an annual tax, in addition to all other taxes, of not more than twenty-seven cents per thousand dollars of the assessed value of all real and personal property subject to taxation within such county, upon proper certification by said county conservation board made pursuant to and in compliance with all of the provisions of chapter 24, which tax shall be collected by the county treasurer as other taxes are collected, and shall be paid into a separate and distinct fund to be known as the county conservation fund, to be paid out upon the warrants drawn by the county auditor upon requisition of the county conservation board for the payment of expenses incurred in carrying out the powers and duties of said conservation board. The county conservation board shall have no power or authority to contract any debt or obligation in any year in excess of the moneys in the hands of the county treasurer immediately available for such purposes, except the board of supervisors may authorize deferred payments for land acquisition purchases not to exceed one-fourth of the annual conservation fund levy nor to extend over a period of ten years or except for projects to be financed from unobligated funds in the county conservation fund and committed federal matching grants. Any single expenditure of, or contract to expend, a sum of five thousand dollars shall be subject to the provisions of chapter 23. Gifts, contributions and bequests of money and all rent, licenses, fees and charges and other revenue or money received or collected by the board shall be deposited in the county conservation fund to be used for the purchase of land, property and equipment and the payment of expenses incurred in carrying out the activities of the board, except

that moneys given, bequeathed, or contributed upon specified trusts shall be held and applied in accordance with the trust specified.

Sec. 3. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Cedar Rapids Gazette, a newspaper published in Cedar Rapids, Iowa, and in the Evening Democrat, a newspaper published in Fort Madison, Iowa.

Approved June 12, 1978

I hereby certify that the foregoing Act, Senate File 2115, was published in The Cedar Rapids Gazette, Cedar Rapids, Iowa on June 19, 1978, and in the Evening Democrat, Fort Madison, Iowa on June 19, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1034

LOCAL BUDGET PUBLIC HEARING

H. F. 2128

AN ACT relating to the publication requirements for an additional public hearing required under local budget law.

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

Section 1. Section twenty-four point forty-one (24.41), Code 1977, is amended to read as follows:

24.41 ADDITIONAL PUBLIC HEARING--FISCAL YEARS--~~1977-78~~
~~AND YEAR~~ 1978-79.

Upon receipt of the notification from the state comptroller that the property tax budget of the certified total budget of a political subdivision for the fiscal year beginning ~~July 1, 1977~~ July 1, 1978, exceeds seven percent but not more than nine percent of the property tax budget of such political subdivision for the base year, the governing body of such political subdivision shall publish notice of and conduct a second public hearing not later than April 15. The date, time and location of the public hearing and ~~the information required to be published under section 24.42 of this division,~~ either a revised budget estimate summary and a statement of what changes have been made or a statement that the originally proposed budget has not been revised, together with the state comptroller's budget limit calculation table shall be published in a newspaper having general circulation throughout the

political subdivision not less than ~~five~~ four days before the date of hearing. Thereafter, the total budget shall be recertified, with or without changes that may be made after the hearing, to the county auditor and the state comptroller not later than April 15. ~~If, after such hearing,~~ the property tax budget for the fiscal year beginning ~~July 1, 1977, or~~ July 1, 1978, exceeds the property tax budget of the base year by more than nine percent, such budget shall be subject to the approval of the state appeal board as provided in section 24.40.

Sec. 2. Section twenty-four point forty-two (24.42), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The provisions of this section shall not apply to publication of notice for a hearing on ~~a total budget for the fiscal year beginning July 1, 1976, required under section 24.9 or 384.46 if the notice of hearing has been published before the effective date of this division,~~ an amendment to a total budget or for a second public hearing required under section twenty-four point forty-one (24.41) of the Code, but it shall apply to any ~~other~~ notice for a the hearing on a the originally proposed total budget or amendment to a total budget required by ~~this division or other provision of~~ law for the fiscal years year beginning ~~July 1, 1976, July 1, 1977, and~~ July 1, 1978.

Sec. 3. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Quad-City Times, a newspaper published in Davenport, Iowa, and the Globe-Gazette, a newspaper published in Mason City, Iowa.

Approved May 12, 1978

I hereby certify that the foregoing Act, House File 2128, was published in the Quad-City Times, Davenport, Iowa on May 17, 1978, and in the Globe-Gazette, Mason City, Iowa on May 19, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1035

POLITICAL SUBDIVISION DEFINED

H. F. 2036

AN ACT to define "political subdivision" for purposes of appeals to the state appeal board for suspension of statutory property tax levy limits on property tax budgets in certain situations.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-three (43), section one (1), amending chapter twenty-four (24), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section only, "political subdivision" means a city, county, school district, or any other special purpose district which certifies its budget to the county auditor and derives funds from a property tax levied against taxable property situated within the political subdivision.

Approved March 10, 1978

CHAPTER 1036

WORKERS' COMPENSATION FOR INMATES

S. F. 2133

AN ACT to limit claims of inmates injured while working to workers' compensation.

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

Section 1. Section twenty-five A point fourteen (25A.14), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Any claim by an inmate as defined in section five (5) of this Act.

Sec. 2. Section eighty-five point thirty-six (85.36), subsection ten (10), Code 1977, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. If the employee was an inmate as defined in section five (5) of this Act, the inmate's actual earnings shall be disregarded, and the weekly compensation rate shall be as set forth in section five (5)

of this Act.

Sec. 3. Section eighty-five point forty-five (85.45), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Future payments of compensation shall not be commuted to a present worth lump sum payment when the employee is an inmate as set forth in section five (5) of this Act.

Sec. 4. Section eighty-five point sixty-one (85.61), subsection two (2), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. "Workman" or "employee" shall include an inmate as defined in section five (5) of this Act.

Sec. 5. Chapter eighty-five (85), Code 1977, is amended by adding the following new section:

NEW SECTION. For the purposes of this section, the term "inmate" includes a person confined in a reformatory, state penitentiary, release center, or other state penal or correctional institution while that person works in connection with the maintenance of the institution or in an industry maintained therein or while on detail to perform services on a public works project.

If an inmate is permanently incapacitated by injury in the performance of his or her work in connection with the maintenance of the institution or in an industry maintained therein or while on detail to perform services on a public works project, that inmate shall be awarded only such benefits as are provided in section eighty-five point twenty-seven (85.27) and section eighty-five point thirty-four (85.34), subsections two (2) and three (3) of the Code. The weekly rate for such permanent disability shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section ninety-six point three (96.3) of the Code and in effect at the time of the injury.

Weekly compensation benefits under this section may be determined prior to the inmate's release from the institution, but payment of benefits to an inmate shall commence as of the time of the inmate's release from the institution either upon parole or final discharge.

If an inmate is receiving benefits under the provisions of this section and is recommitted to an institution covered by this section, the benefits shall immediately cease. If

benefits cease because of the inmate's recommitment, the benefits shall resume upon subsequent release from the institution.

If death results from the injury, death benefits shall be awarded and paid to the dependents of the inmate as in other workers' compensation cases except that the weekly rate shall be equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section ninety-six point three (96.3) of the Code and in effect at the time of the injury.

Payment under this section shall be made promptly out of appropriations which have been made for that purpose, if any. An amount or part thereof which cannot be paid promptly from the appropriation shall be paid promptly out of money in the state treasury not otherwise appropriated.

The time limit for commencing an original proceeding to determine entitlement to benefits under this section shall be the same as set forth in section eighty-five point twenty-six (85.26) of the Code. If an injury occurs to an inmate so as to qualify the inmate for benefits under this section, notwithstanding the fact that payments of weekly benefits are not commenced, a memorandum of agreement shall be filed with the industrial commissioner within thirty days of the time the responsible authority receives notice or knowledge of the injury as required by section eighty-five point twenty-three (85.23) of the Code.

If a dispute arises as to the extent of disability when a memorandum of agreement is on file or when an award determining liability has been made, an action to determine the extent of disability must be commenced within one year of the time of the release of the inmate from the institution. This shall not bar the right to reopen the claim as provided by section eighty-six point thirty-four (86.34) of the Code.

Responsibility for the filings required by chapter eighty-six (86) of the Code for injuries resulting in permanent disability or death and as modified by this section shall be made in the same manner as for other employees of the institution.

Sec. 6. Section eighty-eight point three (88.3), subsection five (5), Code 1977, is amended to read as follows:

5. "Employee" means an employee of an employer who is employed in a business of his employer. "Employee" also means an inmate as defined in section five (5) of this Act, when

he or she works in connection with the maintenance of the institution, in an industry maintained in the institution, or while otherwise on detail to perform services for pay.

Sec. 7. This Act is effective January 1, 1979.

Approved June 5, 1978

CHAPTER 1037

OFFICIAL MEETINGS OPEN TO PUBLIC

H. F. 2074

AN ACT relating to the holding of meetings by governmental bodies expressly created by statute or executive order, local governmental bodies, and other groups created by such governmental bodies, in open session, unless otherwise exempted by statute, and providing remedies and damages.

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

Section 1. Chapter twenty-eight A (28A), Code 1977, is amended by striking the chapter and inserting in lieu thereof sections two (2) through nine (9) of this Act.

Sec. 2. NEW SECTION. INTENT--DECLARATION OF POLICY. This Act seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people. Ambiguity in the construction or application of this Act should be resolved in favor of openness.

Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter:

1. "Governmental body" means:
 - a. A board, council, commission or other governing body expressly created by the statutes of this state or by executive order.
 - b. A board, council, commission, or other governing body of a political subdivision or tax-supported district in this state.
 - c. A multimembered body formally and directly created by one or more boards, councils, commissions, or other governing bodies subject to paragraphs "a" and "b" of this subsection.
 - d. Those multimembered bodies to which the state board of regents or a president of a university has delegated the

responsibility for the management and control of the intercollegiate athletic programs at the state universities.

2. "Meeting" means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this Act.

3. "Open session" means a meeting to which all members of the public have access.

Sec. 4. NEW SECTION. MEETINGS OF GOVERNMENTAL BODIES. Meetings of governmental bodies shall be preceded by public notice as provided in section five (5) of this Act and shall be held in open session unless closed sessions are expressly permitted by law. Except as provided in section six (6) of this Act, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.

Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and the vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Sec. 5. NEW SECTION. PUBLIC NOTICE.

1. A governmental body, except township trustees, shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

2. Notice conforming with all of the requirements of subsection one (1) of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall

be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to handicapped or disabled individuals.

When it is necessary to hold a meeting on less than twenty-four hours notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

3. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

Sec. 6. NEW SECTION. CLOSED SESSION.

1. A governmental body may hold a closed session only by affirmative public vote of either two-thirds of the members of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.

b. To discuss application for letters patent.

c. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.

d. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.

e. To discuss whether to conduct a hearing or to conduct hearings to suspend or expel a student, unless an open session is requested by the student or a parent or guardian of the student if the student is a minor.

f. To discuss the decision to be rendered in a contested case conducted according to the provisions of chapter 17A of the Code.

g. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.

h. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.

i. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

j. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.

2. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.

3. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.

4. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in

an action to enforce this Act, the detailed minutes and tape recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this Act for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and tape recording by the party seeking enforcement of this Act. A governmental body shall keep the detailed minutes and tape recording of any closed session for a period of at least one year from the date of that meeting.

5. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.

Sec. 7. NEW SECTION. ENFORCEMENT.

1. The remedies provided by this section against state governmental bodies shall be in addition to those provided by section seventeen A point nineteen (17A.19) of the Code. Any aggrieved person, taxpayer to or citizen of the state of Iowa, or the attorney general or county attorney, may seek judicial enforcement of the requirements of this Act. Suits to enforce this Act shall be brought in the district court for the county in which the governmental body has its principal place of business.

2. Once a party seeking judicial enforcement of this Act demonstrates to the court that the body in question is subject to the requirements of this Act and has held a closed session, the burden of going forward shall be on the body and its members to demonstrate compliance with the requirements of this Act.

3. Upon a finding by a preponderance of the evidence that a governmental body has violated any provision of this Act, a court:

a. Shall assess each member of the governmental body who participated in its violation damages in the amount of not more than five hundred dollars nor less than one hundred dollars. These damages shall be paid by the court imposing it to the state of Iowa, if the body in question is a state governmental body, or to the local government involved if

the body in question is a local governmental body. A member of a governmental body found to have violated this Act shall not be assessed such damages if that member proves that he or she did any of the following:

- (1) Voted against the closed session.
- (2) Had good reason to believe and in good faith believed facts which, if true, would have indicated compliance with all the requirements of this Act.
- (3) Reasonably relied upon a decision of a court or a formal opinion of the attorney general or the attorney for the governmental body.

b. Shall order the payment of all costs and reasonable attorneys fees to any party successfully establishing a violation of this Act. The costs and fees shall be paid by those members of the governmental body who are assessed damages under paragraph "a" of this subsection. If no such members exist because they have a lawful defense under that paragraph to the imposition of such damages, the costs and fees shall be paid to the successful party from the budget of the offending governmental body or its parent.

c. Shall void any action taken in violation of this Act, if the suit for enforcement of this Act is brought within six months of the violation and the court finds under the facts of the particular case that the public interest in the enforcement of the policy of this Act outweighs the public interest in sustaining the validity of the action taken in the closed session. This paragraph shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

d. Shall issue an order removing a member of a governmental body from office if that member has engaged in two prior violations of this Act for which damages were assessed against the member during his or her term.

e. May issue a mandatory injunction punishable by civil contempt ordering the members of the offending governmental body to refrain for one year from any future violations of this Act.

4. Ignorance of the legal requirements of this Act shall be no defense to an enforcement proceeding brought under this section. A governmental body which is in doubt about the legality of closing a particular meeting is authorized to bring suit at the expense of that governmental body in the

district court of the county of the governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.

Sec. 8. NEW SECTION. RULES OF CONDUCT AT MEETINGS. The public may use cameras or recording devices at any open session. Nothing in this Act shall prevent a governmental body from making and enforcing reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators.

Sec. 9. NEW SECTION. ELECTRONIC MEETINGS.

1. A governmental body may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if the governmental body complies with all of the following:

a. The governmental body provides public access to the conversation of the meeting to the extent reasonably possible.

b. The governmental body complies with section five (5) of this Act. For the purpose of this paragraph, the place of the meeting is the place from which the communication originates or where public access is provided to the conversation.

c. Minutes are kept of the meeting.

The minutes shall include a statement explaining why a meeting in person was impossible or impractical.

2. A meeting conducted in compliance with this section shall not be considered in violation of this Act.

3. A meeting by electronic means may be conducted without complying with paragraph 'a' of subsection one (1) if conducted in accordance with all of the requirements for a closed session contained in section six (6) of this Act.

Sec. 10. Section twenty point seventeen (20.17), subsection three (3), Code 1977, is amended to read as follows:

3. Negotiating sessions, ~~including~~ strategy meetings of public employers or employee organizations, mediation and the deliberative process of arbitrators shall be exempt from the provisions of chapter 28A. However, the employee organization shall present its initial bargaining position to the public employer at the first bargaining session. The public employer shall present its initial bargaining position to the employee organization at the second bargaining session, which shall be held no later than two weeks following the first bargaining session. Both sessions shall be open to the public and subject to the provisions of chapter twenty-

eight A (28A) of the Code. Hearings conducted by arbitrators shall be open to the public.

Sec. 11. Section eight hundred thirteen point two (813.2), Rule 3, subsection 4, paragraph j, Code 1977 Supplement, is amended by adding the following new subparagraph:

(4) The detailed minutes and tape recordings sealed pursuant to section six (6) of this Act.

Sec. 12. This Act is effective January 1, 1979.

Approved June 5, 1978

CHAPTER 1038

UNIFIED LAW ENFORCEMENT

S. F. 380

AN ACT relating to unified law enforcement, including clarification of the tax levy, election procedures, and administration of the district.

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

Section 1. Section twenty-eight E point twenty-one (28E.21), Code 1977, is amended to read as follows:

28E.21 DEFINITION. For the purpose of this division, the term "~~unified-law-enforcement~~ district" means a unified law enforcement district established by an agreement under the provisions of this chapter by ~~counties~~ a county, or portions thereof, or cities to provide law enforcement within the boundaries of the member political subdivisions.

Sec. 2. Section twenty-eight E point twenty-two (28E.22), Code 1977, is amended to read as follows:

28E.22 REFERENDUM FOR TAX. ~~In every county that establishes a unified law enforcement district, the board of supervisors~~ The board of supervisors, or the city councils of a district composed only of cities, may, and upon receipt of a petition signed by five percent of the qualified electors residing in the ~~unified-law-enforcement~~ district shall, submit a proposition to the ~~county~~ electorate residing in the ~~unified law-enforcement~~ district at any ~~countywide~~ general election providing or at a special election held throughout the district. The proposition shall provide for the establishment of a public safety fund and the levy of a tax on taxable property located in the ~~unified-law-enforcement~~ district at rates not exceeding the ~~rate~~ rates specified in this section

~~28E-23~~ for the purpose of providing additional moneys for the operation of the ~~unified-law-enforcement~~ district.

~~At-the-election-the~~ The ballot for the election shall be prepared in substantially the form for submitting special questions at general elections and the form of the proposition shall be substantially as follows:

"Shall ~~a-tax~~ an annual levy, the amount of which will not exceed ~~the-amount-which-would-be-raised-by-a-uniform~~ a rate of one dollar and ~~sixty-two~~ fifty cents per thousand dollars of assessed value of the taxable property in the unified law enforcement district be authorized for providing additional moneys needed for unified law enforcement services in the district for a period of not exceeding five years?"

Yes

No

If a majority of the qualified electors in each city and the unincorporated area of the county voting on the proposition approve the proposition, the county board of supervisors for unincorporated area and city councils for cities are authorized to levy the tax as provided in section twenty-eight E point twenty-three (28E.23) of the Code.

~~Such moneys collected pursuant to the tax levy shall be in-addition-to-other-federal,-state,-and-local-moneys-available-for-law-enforcement-purposes-to-the-county-and-cities-located-in-the-unified-law-enforcement-district.---A-county-or-city-which-is-included-in-a-unified-law-enforcement-district-shall-not-reduce-the-percent-of-its-total-general-fund-budget-used-for-law-enforcement-purposes-because-of-additional-moneys-collected-pursuant-to-the-voted-levy~~ expended only for providing additional moneys needed for unified law enforcement services in the district and shall be in addition to the revenues raised in the county and cities in the district from their general funds which are based upon an average of revenues raised for law enforcement purposes by the county or city for the three previous years.

~~If-a-majority-of-the-qualified-electors-voting-on-the-proposition-approve-the-proposition,-the-board-of-supervisors-shall-levy-the-tax-as-provided-in-section-28E-23-~~

The amount of revenues raised for law enforcement purposes by the county for the three previous years shall be computed separately for the unincorporated portion of the district and for each city in the district.

Sec. 3. Section twenty-eight E point twenty-three (28E.23), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

28E.23 BUDGET. The public safety commission, on or before January tenth of each year, shall make an estimate of the total amount of revenue deemed necessary for operation of the district and, in conjunction with the county board of supervisors and city councils in the district, determine the amounts which will be contributed by the county and each city in the district from their general funds which are based upon an average of revenues raised for law enforcement purposes in the county or city for the three previous years.

One of the following methods shall be used by the public safety commission for computing the amount of revenue deemed necessary for the operation of the district:

1. The per capita cost shall be computed by dividing the amount of revenue deemed necessary for the operation of the district by the total population of the district and by computing separate amounts for the public safety fund as follows:

a. The funds to be contributed by each city in the district shall be computed by multiplying the per capita cost by the population residing in each city of the district.

b. The funds to be contributed by the unincorporated area of the district shall be computed by multiplying the per capita cost by the population residing in the unincorporated area of the district.

2. The percent of service received by the unincorporated area and by each city in the district shall be computed and the percent of service received by each shall be multiplied by the amount of revenue deemed necessary for the operation of the district.

Sec. 4. Chapter twenty-eight E (28E), Code 1977, is amended by adding the following new section after section twenty-eight E point twenty-three (28E.23) of the Code:

NEW SECTION. REVENUE AND TAX LEVIES. The county board of supervisors shall certify to the public safety commission the amount of revenue from the county general fund credited to the unincorporated area in the district based upon an average of revenues raised for law enforcement purposes in the unincorporated area for the three previous years. The public safety commission shall subtract this amount from the amount of revenue to be contributed by the unincorporated area. The difference is the amount of additional revenue needed for unified law enforcement purposes.

In addition, the county board of supervisors and the city council of each city in the district shall certify to the

public safety commission the amounts of revenue from the county general fund and from the city general fund credited to each city in the district based upon an average of revenues raised for law enforcement purposes in each city for the three previous years. The public safety commission shall subtract the total of these amounts from the amount of revenue to be contributed by each city respectively. The difference for each city is the amount of additional revenue needed for unified law enforcement purposes.

The county board of supervisors and the council of each city located within the district shall review the proposed budget and upon the approval of the budget by the board of supervisors and all city councils in the district, each governing body shall determine the source of the additional revenue needed for unified law enforcement purposes. If the tax levy is approved as the source of revenue, the governing body shall certify to the county auditor the amount of revenue to be raised from the tax levy in either the unincorporated area of the district or a city in the district.

If the tax rate in any of the cities or the unincorporated area exceeds the limitations prescribed in section twenty-eight E point twenty-two (28E.22) of the Code, the public safety commission shall revise the budget to conform with the tax limitations.

The county board of supervisors and the city council of each city in the district shall deposit in the public safety fund the amounts of revenue from their general funds certified to the public safety commission in this section based upon an average of revenues raised for law enforcement purposes for the three previous years.

If the average of revenues raised for law enforcement purposes in the unincorporated area or a city for the previous three years exceeds the amount of revenue needed for unified law enforcement purposes, the unincorporated area or city is only required to contribute the amount of revenue needed.

Taxes collected pursuant to the tax levies and other moneys received from the county and cities in the district shall be placed in a public safety fund and used only for the operation of the district. Any unencumbered funds remaining in the fund at the end of a fiscal year shall carry over to the next fiscal year and may be used for the operation of the district.

Sec. 5. Section twenty-eight E point twenty-four (28E.24), Code 1977, is amended to read as follows:

28E.24 EXPANSION OF DISTRICT. Cities and unincorporated areas may join an established unified-law-enforcement district upon the affirmative vote of the city council or county board of supervisors, whichever is applicable, and a tax may be levied for providing additional moneys for unified law enforcement purposes services only upon the affirmative vote of qualified electors of the city or unincorporated area voting in the manner provided in this division. A city or unincorporated area joining a unified-law-enforcement district shall contract with the unified-law-enforcement district for services until the beginning of a fiscal year when the city or unincorporated area may become a member.

~~A-unified-law-enforcement-district-may-encompass-more-than one-county.~~

Sec. 6. Section twenty-eight E point twenty-six (28E.26), Code 1977, is amended to read as follows:

28E.26 DURATION OF AGREEMENTS FOR LAW ENFORCEMENT PURPOSES. An agreement under this chapter to provide joint or co-operative services or facilities for unified law enforcement purposes shall not be executed for less than a three-year five-year period.

Sec. 7. Chapter twenty-eight E (28E), Code 1977, is amended by adding the following new section:

NEW SECTION. PUBLIC SAFETY COMMISSION. If the levy of a tax has been approved under section twenty-eight E point twenty-two (28E.22) of the Code, a public safety commission shall be established under section twenty-eight E point six (28E.6) of the Code. The public safety commission shall be responsible for administering the unified law enforcement agreement. The public safety commission shall be composed of elected officials from public agencies party to the agreement. The composition of the commission shall be determined by the terms of the agreement. A vacancy shall exist when a member of the commission ceases to hold the elected office which qualifies the member for commission membership.

Approved June 13, 1978

CHAPTER 1039

MILITARY CODE

H. F. 2175

AN ACT relating to the state military code.

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

Section 1. Section twenty-nine A point eleven (29A.11), Code 1977, is amended to read as follows:

29A.11 ADJUTANT GENERAL--APPOINTMENT, TERM AND REMOVAL. There shall be an adjutant general of the state who shall be appointed and commissioned by the governor ~~upon the recommendation of a majority of the advisory council. When a majority of the members of the advisory council are in federal service in time of war, said appointment shall be made by the governor without such recommendation~~ with the approval and confirmation of two-thirds of the senate and who shall serve at the pleasure of the governor. The rank of the adjutant general shall be at least that of brigadier general and he or she shall hold office for a term of four years. At the time of ~~his~~ the adjutant general appointment ~~he~~ the adjutant general shall be a federally recognized commissioned officer ~~of the national guard~~ with not less than ten years military service in the armed forces ~~of this state or of the United States~~, at least five of which have been commissioned service, and who shall have reached the grade of a field officer. ~~He shall be removed only upon conviction of a felony or upon conviction by a court-martial or upon termination of his federal recognition.~~

Sec. 2. Section twenty-nine A point fourteen (29A.14), Code 1977, is amended to read as follows:

29A.14 LEASING FACILITIES. The adjutant general with the approval of the director of general services shall have authority to operate or lease any of the facilities at Camp Dodge. Any income or revenue derived from such operation or leasing shall be deposited with the state treasurer as a Camp Dodge permanent improvement fund and credited to the general fund of the state.

Sec. 3. Section twenty-nine A point sixteen (29A.16), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The governor shall appoint a deputy adjutant general, who

shall be a commissioned officer ~~of-the-army-national-guard~~ ~~or-the-air-national-guard~~, and an assistant adjutant general for the army national guard who shall be a commissioned officer ~~of-the-army-national-guard~~, and an assistant adjutant general for the air national guard who shall be a commissioned officer ~~of-the-air-national-guard~~, upon the recommendation of the adjutant general. They shall have such rank as is consistent with federal law and regulations to and including the rank of brigadier general and at the time of their appointment shall be federally recognized commissioned officers ~~of-the-national-guard~~ with not less than five years' service ~~in-the-national-guard-or-in-the-armed-forces-of-the-United States~~, at least three years of which shall have been commissioned service and they shall have reached the grade of a field officer. ~~They shall be removed upon termination of their federal recognition.~~ They shall serve at the pleasure of the governor.

Sec. 4. Section twenty-nine A point one (29A.1), subsection eleven (11), Code 1977, is repealed.

Sec. 5. Section two (2) of this Act is effective January 1, 1980.

Approved June 22, 1978

CHAPTER 1040

DEPARTMENT OF VETERANS AFFAIRS

S. F. 264

AN ACT relating to benefits and services provided to armed forces veterans by creating the Iowa department of veterans affairs, prescribing its powers and duties and its relationship to county commissions on veterans affairs and abolishing certain bonus funds.

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

Section 1.

1. Chapters thirty-five A (35A), thirty-five B (35B) and thirty-five C (35C), Code 1977, are repealed.

2. The World War I bonus fund created in section three (3) of chapter three hundred thirty-two (332) of the Acts of Thirty-ninth General Assembly is abolished.

Sec. 2. NEW SECTION. DEFINITIONS. For the purposes of this Act, unless the context otherwise requires:

1. "Director" means the director of the Iowa department of veterans affairs.

2. "Commission" means the commission of the Iowa department of veterans affairs.

3. "Commissioner" means a member of the commission of the Iowa department of veterans affairs.

4. "Department" means the Iowa department of veterans affairs established in section three (3) of this Act.

Sec. 3. NEW SECTION. DEPARTMENT ESTABLISHED. There is established an Iowa department of veterans affairs which shall consist of a commission, a director and additional employees as are required to carry out the provisions of this Act.

The department shall:

1. Maintain information and data concerning the military service records of Iowa veterans.

2. Assist county veterans affairs commissions established pursuant to chapter two hundred fifty (250) of the Code. The department shall draft and provide to county commissions suggested uniform benefits and administrative procedures for carrying out the functions and duties of the county commissions.

3. Permanently maintain the records including certified records of bonus applications concerning the awards paid pursuant to the additional bonus and disability fund and war orphans educational fund under chapter thirty-five (35) of the Code, and awards paid pursuant to the Vietnam veterans' bonus under chapter thirty-five C (35C) of the Code.

4. Collect and maintain information concerning veterans' affairs.

5. Conduct two service schools each year for the Iowa association of county commissioners and executive secretaries.

6. Assist the United States veterans administration, the Iowa veterans home, funeral directors, and federally chartered veterans service organizations in providing information concerning veterans service records and veterans affairs data.

7. Maintain by counties a permanent registry of the graves of all persons who served in the military or naval forces of the United States in time of war and whose mortal remains rest in Iowa.

Sec. 4. NEW SECTION. COMMISSION. There is established a commission within the Iowa department of veterans affairs. This commission shall consist of five persons who shall be appointed by the governor. Each commissioner shall be an

honorably discharged member of the armed forces of the United States.

Sec. 5. NEW SECTION. APPOINTMENT OF COMMISSIONERS. The American legion of Iowa; disabled American veterans department of Iowa; veterans of foreign wars department of Iowa; and American veterans of World War II, Korea and Vietnam, through their department commanders, shall submit two names respectively from their organizations to the governor. The governor may appoint from each of the organizations one representative to serve as a member of the commission. In addition, the governor shall appoint a member of the public to serve as a fifth member of the commission.

Sec. 6. NEW SECTION. TERMS AND INITIAL APPOINTMENTS. The terms of the commissioners shall be for four years. However, the initial commissioners shall serve as follows:

1. Two members shall serve until June 30, 1980.
2. Two members shall serve until June 30, 1982.
3. One member shall serve until June 30, 1984.

Sec. 7. NEW SECTION. DUTIES OF COMMISSION. The commission shall:

1. Appoint a director of the Iowa department of veterans affairs.
2. Organize and annually select a chairperson.
3. Adopt and establish policy for the operation and conduct of the department, subject to any guidelines which may be adopted by the general assembly.
4. Approve the budget of the department prior to submission to the governor.
5. Promulgate rules pursuant to chapter seventeen A (17A) of the Code concerning management of the department and rules necessary to carry out the duties and responsibilities of the department.
6. Annually visit and evaluate the Iowa veterans home.
7. Annually make a written report to the governor in the manner required by chapter seventeen (17) of the Code.
8. Administer awards concerning the additional bonus and disability fund and the war orphans educational fund.

Sec. 8. NEW SECTION. DIRECTOR DUTIES AND POWERS.

1. The director shall prepare a budget for the department and such other reports as are required by law.
2. The director shall carry out such administrative duties of the department and shall carry out the policies of the department as established by the commission.

Sec. 9. NEW SECTION. TENURE. The director shall serve

at the pleasure of the appointing authority but may be removed from office for inability or refusal to perform the duties of the office. Prior to removal from office on such grounds the individual holding the office shall be afforded a hearing before the commission.

Sec. 10. NEW SECTION. EXPENSES. The director and employees of the department shall receive in addition to salary, reimbursement for necessary travel and actual expenses incurred while engaged in the performance of official duties. The commissioners shall receive forty dollars per diem and reimbursement for necessary travel and actual expenses incurred while engaged in the performance of official duties. Per diem paid to commissioners shall be paid from funds appropriated to the department.

Sec. 11. The director of the department of general services shall transfer or exchange state property used by the bonus board to the Iowa department of veterans affairs.

Sec. 12. Section twenty-nine A point twelve (29A.12), Code 1977, is amended by striking unnumbered paragraph two (2).

Sec. 13. Section thirty-five point two (35.2), Code 1977, is amended to read as follows:

35.2 INVESTMENT OF BONUS AND DISABILITY FUND. The treasurer of state shall invest such portions of the additional bonus and disability fund created by section 8, chapter 332, Acts of the thirty-ninth general assembly, not needed for current payments awarded by the ~~bonus-board~~ commission of the Iowa department of veterans affairs.

Sec. 14. Section thirty-five point four (35.4), Code 1977, is amended to read as follows:

35.4 COLLECTION AND DISPOSITION OF INTEREST. The interest from such investments shall be collected by the treasurer of state and shall constitute a part of the additional bonus and disability fund provided by section 8, chapter 332, Acts of the thirty-ninth general assembly, to be disbursed by the treasurer of state upon the order of said ~~bonus-board~~ commission of the Iowa department of veterans affairs for the purposes prescribed in said section.

Sec. 15. Section thirty-five point five (35.5), Code 1977, is amended to read as follows:

35.5 PAYMENT OF CLAIMS. When any award from such additional bonus and disability fund is made by said ~~bonus board~~ commission of the Iowa department of veterans affairs, payment shall be made in the manner provided in section 7,

chapter 332, Acts of the thirty-ninth general assembly.

Sec. 16. Section thirty-five point six (35.6), Code 1977, is amended to read as follows:

35.6 RULES. Said bonus-board commission of the Iowa department of veterans affairs shall have power to establish such rules as the board commission deems necessary to carry out the provisions of sections 35.2 to 35.5.

Sec. 17. Section thirty-five point seven (35.7), Code 1977, is amended to read as follows:

35.7 ORPHANS EDUCATIONAL FUND. The bonus-board commission of the Iowa department of veterans affairs is hereby authorized and empowered to administer the war orphans educational aid fund as hereinafter provided.

Sec. 18. Section thirty-five point nine (35.9), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Said bonus-board commission of the Iowa department of veterans affairs is authorized to expend not to exceed four hundred dollars per year for any one child who shall have lived in the state of Iowa for two years preceding application for aid hereunder, and who is the child of a man or woman who died during World War I between the dates of April 6, 1917, and June 2, 1921, or during World War II between the dates of September 16, 1940, and December 31, 1946, both dates inclusive, or the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, or the Vietnam Conflict at any time between August 5, 1964, and ~~ending-on-the-date-the-armed-forces-of-the-United-States-are directed-by-formal-order-of-the-government-of-the-United States-to-cease-hostilities~~ May 7, 1975, both dates inclusive, while serving in the military or naval forces of the United States, to include members of the reserve components performing service or duties required or authorized under chapter 39, United States Code and Title 32, United States Code, sections 502 through 505, and active state service required or authorized under chapter 29A, or as a result of such service, to defray the expenses of tuition, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for such child or children incident to attendance at any educational or training institution of college grade, or in any business or vocational training school of standards approved by said bonus-board commission of the Iowa department of veterans affairs, said educational institutions to be located within the state of Iowa.

Sec. 19. Section thirty-five point ten (35.10), Code 1977, is amended to read as follows:

35.10 ELIGIBILITY AND PAYMENT OF AID. Eligibility for aid hereunder shall be determined upon application to the ~~Iowa-bonus-board~~ commission of the Iowa department of veterans affairs, whose decision shall be final. The eligibility of eligible applicants shall be certified by the ~~adjutant-general of-Iowa~~ director to the comptroller of Iowa, and all amounts that may be or may become due to any individual or any training institution under this chapter shall be paid to the individual or institution by said comptroller upon receipt by him or her of certification by the president or governing board of such educational or training institution as to accuracy of charges made, and as to the attendance of the individual at such educational or training institution. It shall be proper for the ~~bonus-board~~ commission of the Iowa department of veterans affairs to pay over said annual sum of four hundred dollars to such educational or training institution in a lump sum, or in such installments as the circumstances may warrant, upon receiving from such institution such written undertaking as the ~~bonus-board~~ commission of the Iowa department of veterans affairs may require to assure the use of said funds for such child for the authorized purposes and for no other purpose. ~~No~~ A person shall not be eligible for the benefits of this chapter until he or she shall have graduated from a high school or educational institution offering a course of training equivalent to high school training.

Sec. 20. Section two hundred fifty point one (250.1), Code 1977, is amended to read as follows:

250.1 TAX. A tax not exceeding twenty-seven cents per thousand dollars of assessed value may be levied by the board of supervisors upon all taxable property within the county, to be collected at the same time and in the same manner as other taxes, to create a veteran affairs fund for the relief benefit of, and to pay the funeral expenses of honorably discharged, indigent men and women of the United States who served in the military or naval forces of the United States in any war including the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964 and ending ~~on-the-date-the-armed-forces-of-the-United States-are-directed-by-formal-order-of-the-government-of-the United-States-to-cess-hostilities~~ May 7, 1975, both dates inclusive, and their indigent wives, widows and minor children

not over eighteen years of age, having a legal residence in the county.

Sec. 21. Section two hundred fifty point two (250.2), Code 1977, is amended to read as follows:

250.2 CONTROL OF FUND. Said fund shall be expended for the purposes aforesaid by the joint action and control of the board of supervisors and the county commission of veteran affairs hereinafter provided for.

Sec. 22. Section two hundred fifty point three (250.3), Code 1977, is amended to read as follows:

250.3 COUNTY COMMISSION OF VETERAN AFFAIRS. The county commission of veteran affairs shall consist of three persons, all of whom shall be honorably discharged men or women of the United States who served in the military or naval forces of the United States in any war, including the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964 and ~~ending-on-the-date-the-armed forces-of-the-United-States-are-directed-by-formal-order-of-the-government-of-the-United-States-to-cess-hostilities~~ May 7, 1975, both dates inclusive. ~~Said-membership-shall-at-all times,-as-near-as-possible,-be-equally-divided~~ If possible each member of the commission shall be a veteran of a different war or conflict, so as to divide membership among the men and women who served in the-Spanish-American-War, World War I and, World War II, the Korean Conflict and Vietnam Conflict, however, this qualification shall not preclude membership to a veteran who served in more than one of the wars or conflicts.

Sec. 23. Section two hundred fifty point seven (250.7), Code 1977, is amended to read as follows:

250.7 MEETINGS--REPORT--BUDGET. The commission shall meet monthly on the first Monday and at such other times as may be necessary. At the monthly meeting it shall determine who are entitled to ~~relief~~ benefits and the probable amount required to be expended therefor. The commission shall meet annually on the second Monday in June. At such annual meeting it shall prepare an estimated budget for all expenditures to be made in the next fiscal year and certify said budget to the board of supervisors, who shall have the power and authority to approve or reduce said budget for valid reasons shown and entered of record and such decision shall be final.

Sec. 24. Section two hundred fifty point nine (250.9),

Code 1977, is amended to read as follows:

250.9 NAMES CERTIFIED--~~RELIEF~~ BENEFITS CHANGED. At each regular meeting the commission shall submit to the board of supervisors a certified list of those persons to whom ~~relief~~ has benefits have been authorized and the amounts so awarded. The amount awarded to any person may be increased, decreased, or discontinued by the commission at any meeting. New names may be added and certified thereat.

Sec. 25. Section two hundred fifty point eleven (250.11), Code 1977, is amended to read as follows:

250.11 DATA FURNISHED ~~BONUS-BOARD~~ STATE COMMISSION. The commission of veteran affairs of each county shall obtain for and transmit to the ~~state-bonus-board-created-by-chapter 35~~ commission of the state department of veterans affairs, at such time and in such manner as the ~~board~~ Iowa commission shall specify, such information as said ~~board~~ Iowa commission may request concerning any person having or claiming to have any right to award from the additional bonus and disability fund created by ~~said chapter~~ thirty-five (35) of the Code.

Sec. 26. Section two hundred fifty point twelve (250.12), Code 1977, is amended to read as follows:

250.12 ~~RELIEF~~ BENEFIT INFORMATION CONFIDENTIAL. It shall be unlawful for ~~the~~ any county board of supervisors ~~of or~~ any county ~~or-the~~ commission of veteran affairs ~~of-any-county~~ to place the administration of the duties of the county commission of veteran affairs under any other ~~relief~~ agency of any county, or to publish the names of the veterans or their families who receive ~~relief~~ benefits under the provisions of this chapter.

Sec. 27. Section two hundred fifty point thirteen (250.13), Code 1977, is amended to read as follows:

250.13 BURIAL--EXPENSES. The board shall designate some suitable person in each township to cause to be decently interred in a suitable cemetery ~~and-not-in-any-cemetery-or part-thereof-used-exclusively-for-the-burial-of-the-pauper dead~~, the body of any honorably discharged man or woman of the United States, who served in the military or naval forces of the United States during any war, including the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964, and ~~ending-on-the-date the-armed-forces-of-the-United-States-are-directed-by-formal order-of-the-government-of-the-United-States-to-cease~~ hostilities May 7, 1975, both dates inclusive, or the spouse,

surviving spouse, or child of such person, if any such person has died without leaving sufficient means to defray the funeral expenses. The commission shall pay such expenses in a sum not exceeding two hundred and fifty dollars in any case.

Sec. 28. Section two hundred fifty point sixteen (250.16), Code 1977, is amended to read as follows:

250.16 MARKERS FOR GRAVES. The county commission of veteran affairs ~~in any county~~ shall, upon the petition of five ~~reputable-freeholders~~ eligible electors of any township or municipality in their county, procure for and furnish to said petitioners some suitable and appropriate metal marker at a cost not exceeding ten dollars each, for the grave of each honorably discharged man or woman of the United States, who served in the military or naval forces of the United States during any war, including the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and including the Vietnam Conflict at any time between August 5, 1964, and ~~ending-on-the-date-the-armed forces-of-the-United-States-are-directed-by-formal-order-of-the-government-of-the-United-States-to-cease-hostilities~~ May 7, 1975, both dates inclusive, who is buried within the limits of said township or municipality, to be placed at ~~his~~ the individual's grave to permanently mark and designate said grave for memorial purposes. The expenses thereof shall be paid from any funds raised as provided in this chapter.

Sec. 29. Section two hundred fifty point nineteen (250.19), Code 1977, is amended to read as follows:

250.19 BURIAL RECORDS. The county commission of veteran affairs ~~of each county~~ shall be charged with securing the information requested by ~~the adjutant-general's office~~ the Iowa department of veterans affairs of every person having a military service record and buried in that county. Such information shall be secured from the undertaker in charge of the burial and shall be transmitted by him or her to the commission of veteran affairs of the county where burial is made and. This information shall be recorded alphabetically and by description of location in the cemetery where the veteran is buried, in a book as prescribed by the adjutant general and kept for that purpose in the office of the commission. This recording shall conform to the directives of the Iowa department of veterans affairs and shall be kept in a book by the county commission.

Sec. 30. Section three hundred thirty-five point four (335.4), unnumbered paragraph one (1), Code 1977, is amended

to read as follows:

The county recorder of each county in this state shall maintain in his or her office a special book or books of ~~uniform-type, kind, and form approved by the adjutant general of the state~~ in which he the recorder shall, upon request, record without charge the discharge or discharges of any man or woman who:

1. Enlisted or was inducted from said county,
2. Resided at any time in said county, or
3. Is buried in said county.

This book shall be of uniform type, kind, and form approved by the Iowa department of veterans affairs and adjutant general of the state.

Sec. 31. Sections thirty-five point one (35.1) and thirty-five C point three (35C.3), Code 1977, are repealed.

Sec. 32. The state comptroller shall allocate to the Iowa department of veterans affairs funds appropriated by the Sixty-seventh General Assembly, 1978 Session, to the bonus board for salaries, support, maintenance and miscellaneous purposes and for the war orphan's educational fund. The state comptroller shall also allocate to the Iowa department of veteran's affairs twenty-five thousand dollars of the funds appropriated by the Sixty-seventh General Assembly, 1978 Session, to the adjutant general which the department of veterans affairs shall use for graves registration.

Sec. 33. The state comptroller shall allocate to the Iowa department of veterans affairs any unencumbered funds remaining on June 30, 1978 from funds appropriated by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter thirty-one (31), section one (1), subsection two (2), paragraph b. Funds so allocated, or so much thereof as may be necessary, may be used to pay travel expenses and per diem of commission members.

Approved June 23, 1978

CHAPTER 1041

MEMORIAL HOSPITALS

H. F. 2407

AN ACT authorizing memorial hospitals established pursuant to chapter thirty-seven (37) of the Code to issue tax anticipatory warrants.

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

Section 1. Chapter thirty-seven (37), Code 1977, is amended by adding the following new sections:

NEW SECTION. ANTICIPATORY WARRANTS. If the funds raised under the provisions of this chapter are insufficient for any fiscal year to pay the principal and interest due in that year on any bonds issued for hospital purposes under section thirty-seven point six (37.6) of the Code and to pay the expenses of the operation and maintenance of the hospital and any other hospital expenses authorized by this chapter for the fiscal year, the commission may issue tax anticipatory warrants drawn on the funds to be raised by the taxes levied under sections thirty-seven point seven (37.7) and thirty-seven point eight (37.8) of the Code. The warrants shall be in denominations of one hundred, five hundred and one thousand dollars and shall draw interest at a rate not to exceed three and one-half percent per annum. These warrants shall not be a general obligation of any political subdivision which owns the hospital.

NEW SECTION. CONTENTS OF WARRANTS. All tax anticipatory warrants shall be signed by the chairperson of the commission and attested by the auditor of a political subdivision which owns the hospital with his or her official seal attached thereto, and dated as of the date of sale, and shall not be sold for less than par value. The warrants may be drawn and sold from time to time as the need for funds to carry out the purpose of this chapter arises.

NEW SECTION. REGISTRATION--CALL. All tax anticipatory warrants drawn under the provisions of this chapter, shall be numbered consecutively, and be registered in the office of the treasurer of a political subdivision which owns the hospital and be subject to call in numerical order at any time when sufficient money derived from the tax levied under this chapter is in the hands of the treasurer to retire any of said warrants together with accrued interest thereon.

Sec. 2. This Act is effective January 1, 1979.

Approved June 5, 1978

CHAPTER 1042
POLITICAL PARTY PRECINCT CAUCUSES

S. F. 2170

AN ACT relating to the latest date when political party precinct caucuses may be held in general election years.

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

Section 1. Section forty-three point four (43.4), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Delegates to county conventions of political parties and party committee members shall be elected at precinct caucuses held not later than ~~the-second-Monday-in-May~~ the second Monday in February of each even-numbered year. The state central committee of each political party shall set the date for said caucuses. In accordance therewith, the county chairperson of each political party shall issue the call for said caucuses. The county chairperson shall file with the commissioner the meeting place of each precinct caucus at least seven days prior to the date of holding such caucus.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa, and in the Iowa City Press-Citizen, a newspaper published in Iowa City, Iowa.

Approved March 31, 1978

I hereby certify that the foregoing Act, Senate File 2170, was published in the Muscatine Journal, Muscatine, Iowa on April 5, 1978, and in the Iowa City Press-Citizen, Iowa City, Iowa on April 5, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1043

COUNCIL MEMBERS IN CITIES

H. F. 2063

AN ACT to change the defined term "councilman" to "council member" in the city code of Iowa, and to make appropriate conforming amendments.

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

Section 1. Section sixty-four point one (64.1), Code 1977, is amended by striking subsection six (6) and inserting in lieu thereof the following:

6. City council members, including city commissioners and aldermen, other than mayors.

Sec. 2. Section sixty-nine point four (69.4), subsection five (5), Code 1977, is amended to read as follows:

5. By all ~~councilmen~~ council members and officers of cities, to the clerk or mayor.

Sec. 3. Section three hundred sixty-two point two (362.2), subsection four (4), Code 1977, is amended to read as follows:

4. "~~Councilman~~ Council member" means a member of a council, including an alderman.

Sec. 4. Section three hundred seventy-two point four (372.4), Code 1977, is amended to read as follows:

372.4 MAYOR-COUNCIL FORM. A city governed by the mayor-council form has a mayor and five ~~councilmen~~ council members elected at large, unless by ordinance a city so governed chooses to have a mayor elected at large and an odd number of ~~councilmen~~ council members but not less than five, including at least two ~~councilmen~~ council members elected at large and one ~~councilman~~ council member elected by and from each ward. The council may, by ordinance, provide for a city manager and prescribe ~~his~~ the manager's powers and duties, and as long as the council contains an odd number of ~~councilmen~~ council members, may change the number of wards, abolish wards, or increase the number of ~~councilmen~~ council members at large without changing the form.

However, a city governed, on the effective date of this section, by the mayor-council form composed of a mayor and a council consisting of two ~~councilmen~~ council members elected at large, and one ~~councilman~~ council member from each of four wards, or a special charter city governed, on the effective

date of this section, by the mayor-council form composed of a mayor and a council consisting of two councilmen council members elected at large and one councilman council member elected from each of eight wards, may continue until the form of government is changed as provided in section 372.2 or section 372.9. While a city is thus operating with an even number of councilmen council members, the mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the council alone, and in a special charter city operating with ten councilmen council members under this section, the mayor may vote to break a tie vote on all measures.

The mayor shall appoint a councilman council member as mayor pro tem, and shall appoint the marshal or chief of police except where an intergovernmental agreement makes other provisions for police protection. Other officers must be selected as directed by the council. The mayor is not a member of the council and may not vote as a member of the council.

Sec. 5. Section three hundred seventy-two point five (372.5), unnumbered paragraphs two (2), three (3), five (5) and six (6), Code 1977, are amended to read as follows:

A city governed by the commission form has a council composed of a mayor and four councilmen council members elected at large. The mayor administers the department of public affairs and each other councilman council member is elected to administer one of the other four departments.

However, a city governed, on the effective date of this section, by the commission form and having a council composed of a mayor and two councilmen council members elected at large may continue with a council of three until the form of government is changed as provided in section 372.2 or section 372.9 or without changing the form, may submit to the voters the question of increasing the council to five members assigned to the five departments as set out in this section.

The councilman council member elected to administer the department of accounts and finances is mayor pro tem.

The council may appoint a city treasurer or may, by ordinance, provide for his election of that officer.

Sec. 6. Section three hundred seventy-two point six (372.6), Code 1977, is amended to read as follows:

372.6 COUNCIL-MANAGER-AT-LARGE FORM. A city governed by the council-manager-at-large form has five councilmen

council members elected at large for staggered four-year terms. At the first meeting of the new term following each city election, the council shall elect one of the ~~councilmen~~ council members to serve as mayor, and one to serve as mayor pro tem. The mayor is a member of the council and may vote on all matters before the council. As soon as possible after the beginning of the new term following each city election, the council shall appoint a manager.

The council may by ordinance provide that the city will be governed by council-manager-ward form. The ordinance must provide for the election of the mayor and ~~councilmen~~ council members required under council-manager-ward form at the next regular city election.

Sec. 7. Section three hundred seventy-two point seven (372.7), Code 1977, is amended to read as follows:

372.7 COUNCIL-MANAGER-WARD FORM. A city governed by council-manager-ward form has a council composed of a mayor and two ~~councilmen~~ council members elected at large, and one ~~councilman~~ council member elected from each of four wards. The mayor and other ~~councilmen~~ council members serve four-year staggered terms. The mayor is a member of the council and may vote on all matters before the council.

As soon as possible after the beginning of the new term following each city election, the council shall appoint a city manager, and a ~~councilman~~ council member to serve as mayor pro tem.

Sec. 8. Section three hundred seventy-two point eight (372.8), subsection two (2), paragraph d, subsection three (3), paragraphs d and e, and subsection four (4), Code 1977, are amended to read as follows:

d. Supervise the official conduct of all officers of the city ~~whom-he-has~~ appointed by the manager, and take active control of the police, fire, and engineering departments of the city.

d. Suspend or discharge summarily any officer, appointee, or employee ~~that-he~~ whom the manager has power to appoint or employ, subject to civil service provisions and chapter 70.

e. Summarily and without notice investigate the affairs and conduct of any department, agency, officer, or employee under ~~his~~ the manager's supervision, and compel the production of evidence and attendance of witnesses.

4. The city manager shall not take part in any election for ~~councilmen~~ council members, other than by casting ~~his~~

a vote, and shall not appoint a ~~eeuneii~~ council member to city office or employment, nor shall a ~~eeuneii~~ council member accept such appointment.

Sec. 9. Section three hundred seventy-two point thirteen (372.13), subsections one (1), four (4), eight (8) and nine (9), Code 1977, are amended to read as follows:

1. A majority of all ~~eeuneii~~ council members is a quorum.

4. Except as otherwise provided by state or city law, the council may appoint city officers and employees, and prescribe their powers, duties, compensation, and terms. The appointment of a city manager must be made on the basis of ~~his~~ that individual's qualifications and not on the basis of political affiliation.

8. By ordinance, the council shall prescribe the compensation of the mayor, ~~eeuneii~~ council members, and other elected city officers, but a change in the compensation of the mayor shall not become effective during the term in which the change is adopted, and the council shall not adopt such an ordinance changing the compensation of the mayor or ~~eeuneii~~ council members during the months of November and December immediately following a regular city election. A change in the compensation of ~~eeuneii~~ council members shall become effective for all ~~eeuneii~~ council members at the beginning of the term of the ~~eeuneii~~ council members elected at the election next following the change in compensation. No elected city officer shall receive any other compensation for any other city office or city employment during ~~his~~ that officer's term of office, but may be reimbursed for ~~his~~ actual expenses incurred. However, if the mayor pro tem performs the duties of the mayor during ~~his~~ the mayor's absence or disability for a continuous period of fifteen days or more, the mayor pro tem may be paid for that period such compensation as determined by the council, based upon ~~his~~ the mayor pro tem's performance of the mayor's duties and upon the compensation of the mayor.

9. A ~~eeuneii~~ council member, during the term for which ~~he~~ that member is elected, is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which ~~he~~ that member is elected. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which ~~he~~ that person was elected if during that time, the compensation of the office has been increased.

Sec. 10. Section three hundred seventy-two point fourteen (372.14), subsections two (2) and three (3), Code 1977, are amended to read as follows:

2. The mayor may take command of the police and govern the city by proclamation when-he-determines, upon making a determination that a time of emergency or public danger exists. Within the city limits, he the mayor has all the powers conferred upon the sheriff to suppress disorders.

3. The mayor pro tem is vice president of the council. When the mayor is absent or unable to act, the mayor pro tem shall perform the mayor's duties, except that the mayor pro tem may not appoint, employ, or discharge officers or employees without the approval of the council. Official actions of the mayor pro tem when the mayor is absent or unable to act are legal and binding to the same extent as if done by the mayor. The mayor pro tem retains all his of the powers as of a councilman council member.

Sec. 11. Section three hundred seventy-six point two (376.2), unnumbered paragraph three (3), and subsections one (1), two (2), three (3) and four (4), Code 1977, are amended to read as follows:

At the first regular city election after the terms of councilmen council members are changed to four years, terms shall be staggered as follows:

1. If an even number of councilmen council members are elected at large, the half of the elected councilmen council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

2. If an odd number of councilmen council members are elected at large, the majority of the elected councilmen council members who receive the highest number of votes are elected for four-year terms. The remainder are elected for two-year terms.

3. In case of a tie the mayor and clerk shall determine by lot which councilmen council members are elected for four-year terms.

4. If the councilmen council members are elected from wards, the councilmen council members elected from the odd-numbered wards are elected for four-year terms and the councilmen council members elected from even-numbered wards are elected for two-year terms.

Sec. 12. Section three hundred eighty point four (380.4), Code 1977, is amended to read as follows:

380.4 MAJORITY REQUIREMENT--TIE VOTE. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the council members, except when the mayor may vote to break a tie vote in a city with an even number of ~~councilmen~~ council members, as provided in section 372.4. A motion to spend public funds in excess of ten thousand dollars on any one project, or a motion to accept public improvements and facilities upon their completion, also requires an affirmative vote of not less than a majority of the council members. Each ~~councilman's~~ council member's vote on an ordinance, amendment, or resolution must be recorded.

Sec. 13. This bill is effective January 1, 1979.

Approved April 13, 1978

CHAPTER 1044

GRAIN DEALERS

S. F. 389

AN ACT relating to persons who engage in the business of buying or selling grain, or who participate in the buying or selling of grain as a bargaining agent for the benefit of others, and providing a penalty.

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

Section 1. Section sixty-eight A point seven (68A.7), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Financial statements submitted to the Iowa state commerce commission pursuant to chapter five hundred forty-two (542) or chapter five hundred forty-three (543) of the Code, by or on behalf of a licensed grain dealer or warehouseman or by an applicant for a grain dealer license or warehouse license.

Sec. 2. Section five hundred forty-two point one (542.1), subsection three (3), Code 1977, is amended to read as follows:

3. "Grain dealer" shall mean any person who is engaged in the business of buying grain for resale or any merchandiser. ~~This However,~~ "grain dealer" shall not be construed to mean a person solely engaged in buying or selling on the board of trade, grain on-the-board-of-trade-or-any future contracts; a person who sells-purchased purchases grain only for sale in a registered feed; a person engaged in the business of

selling agricultural seeds regulated by chapter one hundred ninety-nine (199) of the Code; a person buying or selling grain only as a farm manager; or an executor, administrator, trustee, guardian, or conservator of an estate; or a bargaining agent as defined in section thirteen (13) of this Act.

Sec. 3. Section five hundred forty-two point one (542.1), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. "Merchandiser" means a person who buys grain in the capacity of a broker for the purpose of resale for compensation or a commission and who may or may not operate a warehouse or vehicles used in the transportation of grain.

Sec. 4. Section five hundred forty-two point three (542.3), Code 1977, is amended to read as follows:

542.3 LICENSE REQUIRED--FINANCIAL RESPONSIBILITY. No A person shall not engage in the business of a grain dealer in this state without having obtained a license issued by the commission. Each application for a license to engage in business as a grain dealer shall be filed with the commission and shall be in a form prescribed by the commission. The application shall include the name of the applicant, its principal officers if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which the records are normally kept for transactions of the grain dealer. The application shall also list the number of trucks or tractor trailer units that will be used in the transportation of grain purchased for resale ~~or grain transported into this state for resale.~~ The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a petition filed with the commission, the commission may allow asset valuations in accordance with a competent appraisal. Deferred pricing contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared. In order to receive and retain a license the applicant must have and maintain a net worth of an applicant must exceed five at least twenty-five

thousand dollars or provide bond in addition to that required by section five hundred forty-two point four (542.4) of the Code in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. The commission may require additional information or verification with respect to the financial resources of the applicant and the applicant's ability to pay producers for grain purchased from them.

Sec. 5. Section five hundred forty-two point four (542.4), Code 1977, is amended to read as follows:

542.4 BOND REQUIRED. Any person applying for a license to operate as a grain dealer in accordance with this chapter shall, as a condition to the granting of the license, file with the commission a bond payable to the state of Iowa with a corporate surety approved by the commission in a penal sum of ~~fifteen~~ twenty-five thousand dollars per license conditioned that the applicant will pay the purchase price of any grain to the seller, and that the grain dealer owns or controls, free of liens, any grain which he or she offers for sale; provided that the aggregate liability of the surety to such persons shall in no event exceed the sum of such bond. One bond, cumulative as to minimum requirements, shall be required where a person has multiple licenses but in no event shall the total amount of bond exceed one hundred thousand dollars. No bond shall be canceled by a surety before at least sixty days' notice by certified mail to the commission and the grain dealer. The liability of the surety shall cover all purchases and transactions made by the grain dealer during the time the bond is in force. A grain dealer's bond filed with this commission shall be in continuous force until canceled by the surety. The liability of the surety on any bond required by the provisions of this chapter shall not accumulate for each successive license period during which the bond is in force.

Sec. 6. Section five hundred forty-two point five (542.5), Code 1977, is amended to read as follows:

542.5 LICENSE. Upon the filing of the application and compliance with the terms and conditions of this chapter and rules of the commission, the commission shall issue a license to the applicant. The license shall terminate on the thirtieth of June of each year. A grain dealer's license may be renewed annually by the filing of a renewal fee, a current financial statement and a renewal application on a form prescribed by

~~the commission accompanied by a current financial statement and the renewal fee.~~ An application for renewal shall be received by the commission before the thirtieth of June. A grain dealer license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, a current financial statement, the renewal fee, and penalty fee in the amount of ten dollars from the grain dealer, provided that such materials are filed within thirty days from the date of termination of the grain dealer license. The commission may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Sec. 7. Section five hundred forty-two point eight (542.8), Code 1977, is amended to read as follows:

542.8 PAYMENT. A person licensed as a grain dealer shall ~~make payment of~~ pay the purchase price to the owner or his or her agent for grain upon delivery or demand of the owner or his agent, but not later than thirty days after delivery by the owner or agent unless in accordance with the terms of a duly executed deferred payment or deferred pricing contract. ~~A person who holds a bonded warehouse license may issue deferred payment contracts in accordance with the provisions of section 543.17 and payment shall be made in accordance with the terms of the contract.~~ The contract in addition to such other information as may be required shall contain the following:

1. The seller's name and address.
2. The conditions of delivery.
3. The amount and kind of grain delivered.
4. The price per bushel or basis of value.
5. The date payment is to be made.

The contract must be numbered and signed by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a grain dealer license, the payment date for all deferred payment or deferred pricing contracts shall be advanced to a date not later than thirty days after the effective date of such revocation, termination or cancellation and the purchase price for all unpriced grain shall be determined as of the effective dates of revocation, termination or cancellation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain

dealer, deferred payment or deferred pricing contracts may be assigned to the purchaser of the business. As used in this section, delivery means the transfer of title to and possession of grain by the seller to the grain dealer or to another person in accordance with the agreement of the seller and the grain dealer. As used in this section, payment means the actual payment or tender of payment by the grain dealer to the seller of the agreed purchase price, or in the case of disputes as to sales of grain, the undisputed portion of the purchase price without reduction for any separate claim of the grain dealer against the seller.

Sec. 8. Section five hundred forty-two point nine (542.9), Code 1977, is amended to read as follows:

542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS. The commission may inspect the premises used by any grain dealer in the conduct of his or her business at any time ~~and the~~. The books, accounts, records and papers of every such grain dealer which pertain to grain purchases shall, during ordinary business hours, be subject to inspection by the commission during ordinary business hours. The transporter of grain in transit shall have in his or her possession bills of lading or other documents covering such grain in transit and such documents shall be available for inspection by the commission upon request. Any grain dealer licensed in this state who does not have a place of business within the state upon the request of the commission shall make available and furnish to the commission upon request at any reasonable time and place the commission may set all such books, accounts, records and papers of grain transactions within this state ~~at any reasonable time and place that the commission may set for inspection thereof.~~ Where there is good cause to believe that a person is engaged without a license in the business of a grain dealer in this state, the commission may inspect the books, papers, and records of such person which pertain to grain purchases.

Sec. 9. Section five hundred forty-two point ten (542.10), Code 1977, is amended by striking unnumbered paragraph three (3).

Sec. 10. Chapter five hundred forty-two (542), Code 1977, is amended by adding the following new section:

NEW SECTION. CLAIMS--NOTICE. Upon revocation, termination or cancellation of a grain dealer license, any claim for the purchase price of grain against the grain dealer shall be made in writing and filed with the grain dealer and with

the surety on the grain dealer bond within one hundred twenty days after revocation, termination or cancellation. Failure to make this timely claim shall relieve the surety of all obligations to the claimant. However, this section shall not be construed to reduce below the face amount of the bond then in effect the aggregate liability of the surety to other claimants.

Upon revocation of a grain dealer license, the commission shall cause notice of such revocation to be published once each week for two consecutive weeks in a newspaper of general circulation within the state of Iowa and in a newspaper of general circulation within the county of the grain dealer's principal place of business when that dealer's principal place of business is located in the state of Iowa. The notice shall state the name and address of the grain dealer, the effective date of revocation, and the name and address of the surety on the grain dealer bond. The notice shall also state that any claims against the grain dealer shall be made in writing and sent by ordinary mail or delivered personally within one hundred twenty days after revocation to the grain dealer and the surety on the grain dealer bond.

Sec. 11. Chapter five hundred forty-two (542), Code 1977, is amended by adding the following new section:

NEW SECTION. ENFORCEMENT OFFICERS. The commission may designate by resolution certain of its employees in the warehouse division to be enforcement officers. Each person so designated shall have the authority of a peace officer to make arrests for violations of this chapter.

Sec. 12. Chapter five hundred forty-two (542), Code 1977, is amended by adding the following new section:

NEW SECTION. NO OBLIGATION OF STATE. Nothing in this chapter shall be construed to imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies, employees or officials, either elective or appointive, in respect to any agreement or undertaking to which the provisions of this chapter relate.

Sec. 13. NEW SECTION. As used in sections thirteen (13) through nineteen (19) of this Act, "bargaining agent" means a person, group, firm, association or corporation who bargains with buyers for the sale of grain for agricultural producers.

Bargaining agent shall not mean a person selling grain as a farm manager, or an executor, administrator, trustee, guardian, or conservator of an estate. A bargaining agent shall not take title to the grain but shall act only for or

on behalf of the beneficiaries whose product the bargaining agent is offering for sale. Unless the bargaining agent agreement provides that proceeds from grain sales shall be paid directly to the agricultural producer by the buyer, the bargaining agent agreement shall provide that proceeds shall be paid to and held in trust by either the bargaining agent, or a third person identified in the bargaining agent agreement as a trustee, for the benefit of the agricultural producers. As used in this section the term "grain" means as provided in section five hundred forty-two point one (542.1) of the Code.

Sec. 14. NEW SECTION. PERMIT REQUIRED OF BARGAINING AGENT. A person shall not engage in the business of a bargaining agent in this state without having obtained a permit issued by the Iowa state commerce commission. Each application for a permit to engage in the business of a bargaining agent shall be made with the commission, on a form prescribed by the commission which form of application shall require only information pertinent and necessary for the issuance of the bargaining agent permit. The applicant shall supply the commission with information to establish that proceeds from sales of grain which are executed by the bargaining agent on behalf of agricultural producers will be received and held in trust for the beneficiaries to assure payment of the proceeds of sale. The application shall also be accompanied by proof of bond pursuant to section sixteen (16) of this Act.

Sec. 15. NEW SECTION. BARGAINING AGENT'S PERMIT. Upon the filing of the application and compliance with the terms and conditions of sections thirteen (13) and fourteen (14) of this Act, the Iowa state commerce commission shall issue a permit to the applicant. The permit shall be good for one year from the date of issuance. The permit may be renewed annually by filing of a renewal application on a form prescribed by the commission accompanied by an annual report of the bargaining agent showing any additions to or modification of the trust relationship. The applicant for a bargaining agent permit or a renewal thereof shall pay a permit fee in the amount of twenty-five dollars. The commission may cancel a permit upon the request of a permittee.

Sec. 16. NEW SECTION. BOND REQUIRED OF BARGAINING AGENT. Any applicant for a permit to operate as a bargaining agent in accordance with this Act, as a condition to the granting

of the permit, shall file with the commerce commission proof of a bond which is in the form and with such surety or sureties as required by the commission covering the fiduciary responsibility of those trustees responsible to the beneficiaries. The bond shall be in a penal sum of fifty thousand dollars.

Sec. 17. NEW SECTION. INSPECTION OF BARGAINING AGENT'S BOOKS AND RECORDS. A bargaining agent's books, accounts, records and papers of grain transactions, and all books, accounts, records and papers relating to trust funds or to funds required by this Act to be held in trust, shall be subject to inspection by the commission during ordinary business hours. Where there is good cause to believe that a person is engaged without a permit in the business of a bargaining agent in this state, the commission may inspect the books, papers and records of such person.

Sec. 18. NEW SECTION. PENALTIES--MISDEMEANOR. Any person who engages in business as a bargaining agent without obtaining a permit or any person in violation of any other provision of sections thirteen (13) through seventeen (17) of this Act, or any bargaining agent who refuses to permit inspection of books, accounts or records of grain transactions as provided in this chapter, shall be guilty of a simple misdemeanor. Each day that any violation continues shall constitute a separate offense. Any person violating the provisions of this chapter may be restrained by an injunction. The permit of any person who has been found after a hearing, to have willfully violated the provisions of this chapter may be suspended for a reasonable time or revoked by the commission.

Sec. 19. NEW SECTION. SUSPENSION OR REVOCATION OF PERMIT. The commission may after hearing and upon information being filed with the commission by the head of the warehouse division of the commission or upon complaint filed by any person, suspend or revoke a bargaining agent permit issued under sections thirteen (13) through nineteen (19) of this Act for the violation of or failure to comply with the provisions of sections thirteen (13) through nineteen (19) of this Act or any rule adopted thereunder. An information or a verified complaint stating the grounds for suspension or revocation shall be filed with the commission in triplicate. The commission shall notify the permittee of the complaint and furnish the permittee with a copy of the information or the complaint and a copy of the order of the commission fixing

the time for a hearing, which time shall be at least five days from the date of notification. If the commission determines that the public good requires immediate action, the commission may, upon the filing of the information or the complaint and without hearing, temporarily suspend a permit pending the determination by it of the complaint. Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure Act.

The commission may revoke a bargaining agent permit upon information without hearing if the permittee fails to have sufficient bond on file with the commission, or if the permittee fails to submit to inspection.

Upon revocation of a permit, any claim of a creditor shall be filed against the former permittee within one hundred twenty days after the date of revocation. The commission shall provide for giving notice to all agricultural producers under contract with the person holding the bargaining agent permit of the revocation of the permit.

Approved June 23, 1978

CHAPTER 1045

LOCAL GOVERNMENT BONDS

H. F. 2023

AN ACT relating to the denominations in which bonds of local governmental units may be issued.

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

Section 1. Section seventy-five point ten (75.10), Code 1977, is amended to read as follows:

75.10 DENOMINATIONS OF BONDS. Notwithstanding any other provisions in the statutes to the contrary, issues of public bonds of every kind and character by counties, cities and school corporations shall be issued in amounts of one hundred dollars or multiples thereof not to exceed ten thousand dollars, except that if the purchaser of an issue of bonds requests and the body issuing the bonds agrees, a bond may be issued in a denomination which exceeds ten thousand dollars, provided the purchaser is an agency of the Federal Government.

This provision shall not apply to bonds, the interest or principal, or both, of which are payable out of special assessments against benefited properties.

Approved May 12, 1978

CHAPTER 1046
OLYMPIC COMPETITION

H. F. 2040

AN ACT to provide a paid leave of absence to compete in olympic competition.

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

Section 1. Chapter seventy-nine (79), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter fifty (50) and 1977 Extraordinary Session, chapter one (1), is amended by adding the following new section:

NEW SECTION. The state and any political subdivisions of the state shall grant employees leave from employment to participate in olympic competition sanctioned by the United States olympic committee. Any leave granted shall not exceed the time required for actual participation in the competition, plus a reasonable time for travel to and return from the site of the competition, and a reasonable time for precompetition training at the site. The state or political subdivision shall compensate the employee at the employee's regular rate of pay during any leave granted. Pay for each week of leave shall not exceed the amount the employee would receive for a normal work week, and the employee shall not be paid for any day spent in olympic competition for which he or she would not ordinarily receive pay as part of his or her regular employment. The maximum leave granted per fiscal year under this section shall not exceed ninety days. Employees with approved leave shall retain all employment benefits throughout the leave of absence. The director of the Iowa merit employment commission shall promulgate rules for the implementation of this section.

There is hereby appropriated each year from the general fund of the state an amount necessary to reimburse a political subdivision for the costs incurred in granting a leave of absence to participate in olympic competition and training under the provisions of this section. Applications to the

state comptroller upon forms provided by the state comptroller for reimbursement by a political subdivision shall be made quarterly for the periods ending September thirtieth, December thirty-first, March thirty-first, and June thirtieth.

Reimbursement shall be forwarded to the political subdivisions by the state comptroller within fifteen days after receipt of the quarterly application.

Sec. 2. Nothing in this Act shall duplicate any federal plan for paid leave of absence to compete in or train for olympic competition.

Approved June 5, 1978

CHAPTER 1047

PAYROLL CHARITABLE CONTRIBUTIONS

S. F. 164

AN ACT authorizing the deduction from a state officer's or employee's wages or salary an amount for contribution to a qualifying charitable organization of the officer's or employee's choice.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Charitable organization" means an organization that is eligible to receive contributions which may be deducted on the contributor's Iowa individual tax return and that has been designated, at the request of one hundred or more eligible state officers and employees, or the number of employees required by subsection three (3) of this section, by a responsible official of the payroll system under which the officers or employees are compensated, to receive contributions pursuant to section two (2) of this Act.

2. "Enrollment period" means the time during which the charitable organization conducts an annual consolidated effort to secure funds.

3. "Number of persons required" means:

a. In the case of employees at the Iowa state university of science and technology and the state university of Iowa, one hundred or more participants.

b. In the case of employees at the university of northern Iowa, fifty or more participants.

c. In the case of employees at the Iowa school for the deaf and the Iowa braille and sight-saving school, twenty-

five or more participants.

Sec. 2. NEW SECTION. PAYROLL DEDUCTION. The responsible official in charge of the payroll system may deduct from the salary or wages of a state officer or employee an amount specified by the officer or employee for payment to a charitable organization if:

1. The request for the payroll deduction is made in writing during the enrollment period for the charitable organization.

2. The deduction shall not continue in effect for a period of time exceeding one year unless a new written request is filed according to the requirements of this section.

3. The pay period during which the deduction is made, the frequency, and the amount of the deduction are compatible with the payroll system.

Moneys deducted pursuant to this section shall be paid over promptly to the appropriate charitable organization. The deduction may be made notwithstanding that the compensation actually paid to the officer or employee is reduced to an amount below the minimum prescribed by law. Payment to an officer or employee of compensation less the deduction shall constitute a full and complete discharge of claims and demands for services rendered by the employee during the period covered by the payment. The request for the deduction may be withdrawn at any time by filing a written notification of withdrawal with the responsible official in charge of the payroll system.

Sec. 3. Sections seventy-nine point fourteen (79.14) and seventy-nine point fifteen (79.15), Code 1977, are repealed.

Sec. 4. This Act is effective January 1, 1978.

Approved June 26, 1978

CHAPTER 1048

EMPLOYEES ACCRUED SICK LEAVE

S. F. 2247

AN ACT relating to credit for accrued sick leave and providing an appropriation.

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

Section 1. It is the intent of the general assembly to provide an actuarially sound method for providing some form of credit for the accrual of sick leave for employees who are not covered under a collective bargaining agreement negotiated under the provisions of chapter twenty (20) of

the Code. There is appropriated from the general fund of the state to the state comptroller for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of thirty-five thousand (35,000) dollars, or so much thereof as may be necessary, for the purpose of conducting an actuarial study of alternative methods to compensate employees in whole or in part for the value of accrued days of sick leave. The alternative methods shall include but not be limited to early retirement, increments of credit for accrual of sick leave, incentives for work attendance including vacation incentives, payment of insurance benefits after retirement, and annualization of sick leave costs.

The state comptroller shall report to the general assembly not later than January 15, 1979 the results of the study together with recommendations and cost estimates.

Sec. 2. The governor is directed to issue an executive order implementing a policy which would grant additional vacation time, not to exceed one-half day, to state employees, who are not covered under a collective bargaining agreement negotiated pursuant to chapter twenty (20) of the Code, who do not use sick leave during a full month of employment. The executive order shall remain in effect until the general assembly provides a program based upon the state comptroller's study for providing credit for the accrual of sick leave. The accrual of additional vacation time by an employee for not using sick leave during a month shall be in lieu of the accrual of one and one-half days of sick leave for that month.

Sec. 3. Acts of the Sixty-seventh General Assembly, 1977 Extraordinary Session, chapter one (1), section thirty (30), amending section seventy-nine point one (79.1) of the Code, is amended to read as follows:

SEC. 30. Section seventy-nine point one (79.1), Code 1977, is amended by striking unnumbered paragraph four (4) and inserting in lieu thereof the following:

Commencing July 1, 1977, permanent full-time employees of state departments, boards, agencies, and commissions shall accrue sick leave at the rate of one and one-half days for each full month of employment. Sick leave shall not accrue during any period of absence without pay. Employees may use accrued sick leave for physical or mental personal illness, bodily injury, medically-related disabilities, including disabilities resulting from pregnancy and childbirth, or contagious disease:

1. Which require the employee's confinement,
2. Which render the employee unable to perform assigned duties, or
3. When performance of assigned duties would jeopardize the employee's health or recovery. ~~The first ninety days (seven-hundred-twenty-hours) of sick leave which accrue to an employee shall be placed in an active sick leave account. Any days of sick leave in excess of ninety days which accrue to an employee shall be placed in an employee's banked sick leave account. The sick leave in an employee's banked sick leave account shall not be used by the employee until the employee no longer has any days of accrued active sick leave and shall only be used if an employee has an extended illness of at least five working days in duration.~~

Separation from state employment shall cancel all unused accrued sick leave. However, if an employee is laid off and the employee is reemployed by any state department, board, agency, or commission within one year of the date of the lay off, accrued sick leave of the employee shall be restored.

Sec. 4. Acts of the Sixty-seventh General Assembly, 1977 Extraordinary Session, chapter one (1), section thirty-three (33), is amended to read as follows:

SEC. 33. Chapter seventy-nine (79), Code 1977, is amended by adding the following new section:

NEW SECTION. CREDIT FOR ACCRUED SICK LEAVE. Commencing July 1, 1978 1977 when an employee who is not covered under the provisions of a collective bargaining agreement negotiated under the provisions of chapter twenty (20) of the Code retires under the provisions of a retirement system in the state maintained in whole or in part by public contributions or payments, the current-value number of accrued days of active and banked sick leave of the employee shall be credited to the employee. For the purpose of this section, the "current value of accrued days of active and banked sick leave" means an amount equal to the product of the accrued days of active and banked sick leave multiplied by the bi-weekly regular salary of the employee divided by ten Until the general assembly provides a program of credit for accrued sick leave, the number of accrued days credited to an employee upon retirement shall be the same as at the time of the employee's retirement.

Approved June 13, 1978

CHAPTER 1049

COLLEGE AID COMMISSION

S. F. 2228

AN ACT providing for a guaranteed student loan program, a state matching program to match federal funds paid under the GI Bill Improvement Act of 1977, changing the name of the higher education facilities commission and increasing its membership by two members and making an appropriation.

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

Section 1. Section eighty B point six (80B.6), subsection six (6), Code 1977, is amended to read as follows:

6. One member from the ~~higher-education-facilities~~ college aid commission for a term of four years commencing on August 15, 1974. This member shall be the commissioner who represents the private colleges.

Sec. 2. Section two hundred sixty-one point one (261.1), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

There is hereby created a commission to be known as the "~~Higher-Education-Facilities~~ College Aid Commission" of the state of Iowa. Membership of the commission shall be as follows:

Sec. 3. Section two hundred sixty-one point one (261.1), subsection six (6), Code 1977, is amended to read as follows:

6. ~~Four~~ Six additional members to be appointed by the governor. One of such members shall be selected to represent private colleges, private universities and private junior colleges located in the state of Iowa. When appointing such one member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of some or all private colleges, private universities and private junior colleges located in the state of Iowa. One such member shall be enrolled as a student at a board of regents institution, merged area school, or accredited private institution. One such member shall be a representative of a lending institution located in this state. The other three such members, none of whom shall be official board members or trustees of an institution of higher learning or of an association of such institutions, shall be selected to represent the general public.

Sec. 4. Section two hundred sixty-one point one (261.1),

unnumbered paragraph five (5), Code 1977, is amended to read as follows:

A vacancy shall exist on the commission when a legislative member of the commission ceases to be a member of the general assembly or when a student member ceases to be enrolled as a student. Such vacancy shall be filled within thirty days.

Sec. 5. Section two hundred sixty-one point two (261.2), subsection five (5), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Said fund shall be allotted to students for not more than three years of study and shall be in the nature of a loan. Such loan shall have as one of its terms that fifty percent thereof shall be canceled at the end of five years of the general practice in Iowa with an additional ten percent to be canceled each year thereafter until the entire loan may be canceled. No interest shall be charged on any part of the loan thus canceled. Additional terms and conditions of said loan shall be established by the ~~higher-education facilities~~ college aid commission so as to facilitate the purpose of this section.

Sec. 6. Section two hundred sixty-one point two (261.2), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Prepare a state plan, complete with fiscal implications, for a state matching program to match federal funds paid under the GI Bill Improvement Act of 1977 Public Law ninety-five dash two hundred two (P.L. 95-202) to a veteran who is an Iowa resident for the purpose of repaying any school loans received by such veteran from the United States veterans administration.

Sec. 7. Section two hundred sixty-one point nine (261.9), subsection six (6), Code 1977, is amended to read as follows:

6. "Commission" means the ~~higher-education-facilities~~ college aid commission.

Sec. 8. Section two hundred sixty-one point fifteen (261.15), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The ~~higher-education-facilities~~ commission shall administer this program and shall:

Sec. 9. Section two hundred sixty-one point seventeen (261.17), subsection six (6), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The ~~higher-education-facilities~~ commission shall administer this program and shall:

Sec. 10. Section two hundred sixty-one point eighteen

(261.18), Code 1977, is amended to read as follows:

261.18 SUBVENTION PROGRAM.

1. There is established a subvention program for resident students who are enrolled in the college of osteopathic medicine and surgery of Des Moines, Iowa. The subvention program shall be administered by the **higher-education facilities** commission in the manner provided in this section and section 261.19.

2. In making a final determination of who is a resident of Iowa, the **higher-education-facilities** commission shall adopt rules for the academic year commencing in 1976 and for each academic year thereafter consistent with those followed for determining Iowa resident students in section 261.15 and be subject to the provisions of chapter 17A.

Sec. 11. Section two hundred sixty-one point nineteen (261.19), Code 1977, is amended to read as follows:

261.19 PAYMENT OF SUBVENTION. The registrar of the college of osteopathic medicine and surgery shall file, not later than August 4 first of each year, a certificate of enrollment which shall include the number, names and addresses of all students enrolled, by class, and shall indicate which students are resident students. If the number of resident students does not equal thirty percent of the total enrollment of a class, the **higher-education-facilities** commission shall deduct the sum of twenty thousand dollars for each class member under the required percentage. The **higher-education-facilities** commission shall compute the amount of the subvention and shall transmit the funds to the college of osteopathic medicine and surgery by August 45 fifteenth of each year for which funds are appropriated by the general assembly.

Sec. 12. Section two hundred sixty-one point twenty-five (261.25), subsections one (1), two (2) and three (3), Code 1977, are amended to read as follows:

1. There is appropriated from the general fund of the state to the **higher-education-facilities** commission for each fiscal year the sum of ten million dollars for tuition grants.

2. There is appropriated from the general fund of the state to the **higher-education-facilities** commission for each fiscal year the sum of three hundred fifty thousand dollars for scholarships.

3. There is appropriated from the general fund of the state to the **higher-education-facilities** commission for each fiscal year the sum of one hundred fifty thousand dollars for vocational-technical tuition grants.

Sec. 13. Section two hundred sixty-one point twenty-six (261.26), Code 1977, is amended to read as follows:

261.26 OPTOMETRY SCHOOLS. The ~~higher-education-facilities~~ commission shall contract with the proper officials of states which have accredited schools and colleges of optometry for the admission and education of qualified applicants who are domiciliaries of Iowa and who have demonstrated interest, aptitude, and readiness for study in the field of optometry. In making a final determination of who is a domiciliary of Iowa, the ~~higher-education-facilities~~ commission shall adopt rules for the academic year commencing in 1976 and for each academic year thereafter consistent with those followed for determining Iowa resident students in section 261.15 and subject to the provisions of chapter 17A.

Sec. 14. Section two hundred sixty-one point twenty-seven (261.27), Code 1977, is amended to read as follows:

261.27 CONTRACT FOR RIGHT TO ENTER SCHOOL. In carrying out its duties under the provisions of section 261.26 the ~~higher-education-facilities~~ commission shall contract for the right of not less than ten qualified persons to enter accredited schools and colleges of optometry during the school year commencing in the year 1976. The ~~higher-education facilities~~ commission shall initiate an affirmative action program to insure equal opportunity for participation by women, men, and minority students in the program provided for in this section and section 261.26. Funds expended on behalf of each person shall not exceed three thousand dollars during any one fiscal year. The ~~higher-education-facilities~~ commission shall make a report regarding its duties under section 261.26 to the legislative fiscal committee at such time as the legislative fiscal committee shall request.

Sec. 15. Chapter two hundred sixty-one (261), Code 1977, is amended by adding sections sixteen (16) through twenty-three (23) of this Act as a new division.

Sec. 16. NEW SECTION. DEFINITIONS. As used in this division, unless the context otherwise requires:

1. "Commission" means the college aid commission of the state of Iowa.

2. "Eligible institution" means any postsecondary educational institution which meets the requirements of the provisions of the Higher Education Act of 1965 for student participation in the federal interest subsidy program and the requirements prescribed by rule of the commission.

3. "Eligible lender" means a financial or credit institution, insurance company or other approved lender which meets the standards prescribed by the commission and has executed a lender participation agreement with the commission.

4. "Higher Education Act of 1965" means the federal Higher Education Act of 1965, as amended to and including January 1, 1978.

5. "Eligible student" means a person who is a resident of this state and is enrolled or will be enrolled at an eligible institution within or without the state or who is a nonresident of this state and is enrolled or will be enrolled at an eligible institution within the state and who meets the eligibility requirements established by the commission. The commission shall establish the qualifications for being a resident of this state, however, the qualifications shall not be more stringent than those established by the state board of regents.

Sec. 17. NEW SECTION. POWERS. The commission shall have necessary powers to carry out its purposes and duties under this division, including but not limited to the power to:

1. Sue and be sued in its own name.

2. Incur and discharge debts including the payment of any defaulted loan obligations which have been guaranteed by the commission.

3. Make and execute agreements, contracts and other instruments with any public or private person or agency including the United States commissioner of education.

4. Guarantee loans made by eligible lenders to eligible students who are enrolled or will be enrolled at eligible institutions as at least half-time students as defined by the commission.

5. Approve educational institutions as eligible institutions upon their meeting the requirements established by the commission.

6. Approve financial or credit institutions, insurance companies or other lenders as eligible lenders upon their meeting the standards established by the commission for making guaranteed loans.

7. Accept appropriations, gifts, grants, loans or other aid from public or private persons or agencies including the United States commissioner of education.

8. Implement various means of encouraging maximum lender participation in the Iowa guaranteed student loan program.

Sec. 18. NEW SECTION. DUTIES. The duties of the commission under this division shall be as follows:

1. To review the Iowa guaranteed student loan program.
2. To review and make disposition of all applications for the guarantee of student loans.
3. Collect an insurance premium of not more than one percent per annum of the principal amount of any loan guaranteed, beginning with the date of disbursement and ending one year after the date on which the borrower expects to complete the course of study for which the loan was made. Such premium shall be collected by the lender upon the disbursement of the loan and shall be remitted promptly to the commission.
4. To enter into all necessary agreements with the United States commissioner of education as may be required for the purpose of receiving full benefit of the state program incentives offered pursuant to the Higher Education Act of 1965.
5. To promulgate rules pursuant to chapter seventeen A (17A) of the Code to implement the provisions of this division including establishing standards for educational institutions, lenders and individuals to become eligible institutions, lenders and students. The rules and standards established shall be consistent with the requirements provided in the Higher Education Act of 1965.
6. To reimburse eligible lenders for one hundred percent of the principal and accrued interest on defaulted loans guaranteed by the commission upon receipt of written notice of such default accompanied by evidence that the lender has exercised the required degree of diligence in efforts to collect the loan.
7. To establish an effective system for the collection of delinquent loans.
8. To develop and disseminate informational and educational materials to lenders, postsecondary institutions and student borrowers.
9. To develop all forms necessary to the proper administration of the guaranteed student loan program and provide supplies of such forms to participating lenders and postsecondary institutions.
10. To report annually to the governor and the general assembly on the status of the guaranteed student loan program.
11. To implement all possible assistance to eligible lenders for the purpose of easing the workload entailed in participation in the guaranteed student loan program.

Sec. 19. NEW SECTION. LOAN RESERVE AND ADMINISTRATIVE ACCOUNTS.

1. The commission shall establish a loan reserve account from which any default on a guaranteed student loan shall be paid. The commission shall credit to this account all moneys designated exclusively for the reserve fund by the United States, the state of Iowa or any of their agencies, departments or instrumentalities, as well as any funds accruing to the program which are not required for current administrative expenses.

2. The commission shall establish an administrative account from which the operating costs of the guaranteed student loan program shall be paid. The commission may transfer funds between the reserve and administrative accounts upon approval of the state comptroller. The state comptroller shall determine what is the actuarially sound reserve requirement for the amount of guaranteed loans outstanding.

3. The payment of any funds for the default on a guaranteed student loan shall be solely from the loan reserve account. The general assembly shall not be obligated to appropriate any moneys to pay for any defaults or to appropriate any moneys to be credited to the loan reserve account. The commission shall not give or lend the credit of the state of Iowa.

4. Funds on deposit in the loan reserve account or in the administrative account shall not revert to the state general fund at the close of any fiscal year.

5. The treasurer of state shall invest any funds, including those in the loan reserve account, and the interest income earned shall be credited back to the loan reserve account.

Sec. 20. NEW SECTION. TRANSFER OF FUNDS AND ASSETS. All moneys which are to be refunded to the state under the contract with United Student Aid Funds, Incorporated, involving the Iowa guaranteed student loan program in effect prior to the effective date of this Act shall be refunded to the commission and shall be credited to the loan reserve account except those funds which must be repaid to the United States government.

All assets and liabilities of the student loan program established pursuant to sections two hundred sixty-one point five (261.5) through two hundred sixty-one point eight (261.8) of the Code and existing on the effective date of this Act shall be assets and liabilities of the Iowa guaranteed student

loan program established pursuant to this Act.

Sec. 21. NEW SECTION. REPAYMENT OF STATE APPROPRIATIONS. The commission shall repay to the treasurer of state all funds appropriated for the Iowa guaranteed student loan program for the fiscal years 1979, 1980 and 1981. The commission shall repay such funds in any fiscal year only when the funds available are in excess of the amount needed to pay the costs of administering the program and to insure an actuarially sound reserve account for that fiscal year and then only in the amount of the excess funds available.

Sec. 22. NEW SECTION. The loan program and the loan reserve account established by this division shall not be dissolved until all guaranteed loans have been repaid by the borrower or, if in default, by the commission. Upon dissolution of the loan program, all the property and moneys of the program and in the loan reserve account not owed to the federal government shall be transferred to the state general fund.

Sec. 23. NEW SECTION. SHORT TITLE. This division shall be known and may be cited as the Iowa guaranteed student loan program.

Sec. 24. Sections two hundred sixty-one point five (261.5) through two hundred sixty-one point eight (261.8), Code 1977, are repealed.

Sec. 25. There is appropriated from the general fund of the state to the college aid commission established by section two (2) of this Act the sum of two hundred eighty thousand two hundred nine (280,209) dollars to be used for the following purposes:

	<u>1978-1979</u> <u>Fiscal Year</u>
1. For salaries, support, maintenance and miscellaneous purposes incurred in administering the Iowa guaranteed student loan program	\$100,000
2. For matching federal funds	\$180,209

Funds appropriated by subsection two (2) of this section and matching federal funds shall be credited to the loan reserve account and shall not revert to the general fund as provided in section eight point thirty-three (8.33) of the Code.

Funds appropriated to the higher education facilities commission by any Act of the Sixty-seventh General Assembly, 1978 Session, shall be construed to be appropriated to the college aid commission.

Approved June 20, 1978

CHAPTER 1050

IOWA CRIME COMMISSION

S. F. 2208

AN ACT relating to the composition of the Iowa crime commission.

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

Section 1. Section eighty C point six (80C.6), Code 1977, is amended to read as follows:

80C.6 COMMISSION MEMBERSHIP. The commission shall consist of ~~nine~~ twelve members who are concerned with and knowledgeable about the problems of criminal justice and who are appointed for four-year terms by the governor ~~as follows:~~

~~1. -- Five members representative of law enforcement and criminal justice agencies maintaining programs to reduce and control crime, two of whom shall be officials of cities or counties, two of whom shall be officials of the state and one of whom shall be a representative of a juvenile justice agency.~~

~~2. -- Four citizen members who have demonstrated knowledge and concern in the prevention and control of crime and delinquency. -- At least one citizen member shall be appointed to represent the citizens of the state who are affected by unemployment, low income or substandard housing subject to confirmation by two-thirds of the members of the senate.~~

The governor shall appoint an executive director of the commission who shall be ~~his~~ the governor's official representative, and who shall be the principal executive administrator of the commission.

~~All commissioners designated by the governor shall serve at the governor's pleasure.~~ No member of the general assembly shall be appointed as a voting member of the commission.

Sec. 2. The initial members of the Iowa crime commission appointed on or after the effective date of this Act pursuant to section one (1) of this Act shall be appointed as follows:

1. Three members shall each be appointed to a one-year term.
2. Three members shall each be appointed to a two-year term.
3. Three members shall each be appointed to a three-year term.
4. Three members shall each be appointed to a four-year term.

Successors of the initial appointees shall be appointed to four-year terms as provided in section one (1) of this Act.

Approved June 2, 1978

CHAPTER 1051

SURFACE MINING VIOLATIONS

H. F. 2354

AN ACT relating to the implementation in Iowa of the initial regulatory program developed under the federal Surface Mining and Reclamation Act of 1977.

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

Section 1. Chapter eighty-three A (83A), Code 1977, is amended by adding the following new sections:

NEW SECTION. SUSPENSION OR REVOCATION OF LICENSE. Notwithstanding the provisions of section eighty-three A point eight (83A.8) of the Code, the department may, with approval of the committee, commence proceedings to suspend, revoke, or refuse to renew a license of any licensee for repeated or willful violation of any of the provisions of this chapter or of rules adopted pursuant to this chapter or of the federal Coal Mine Health and Safety Act of 1969 or the federal Metal and Nonmetallic Mine Safety Act or of the initial regulatory program developed pursuant to the federal Surface Mining Control and Reclamation Act of 1977 and contained in thirty (30), Code of Federal Regulations, sections seven hundred ten (710), seven hundred fifteen (715), seven hundred sixteen (716), seven hundred seventeen (717), seven hundred eighteen (718) and seven hundred twenty (720) as they existed on the effective date of this Act and as published in the Federal Register on December 13, 1977. The department shall by certified mail or personal service serve on the licensee notice in writing of the charges and grounds upon which the

license is to be suspended, revoked, or will not be renewed. The notice shall include the time and the place at which a hearing shall be held before the committee to determine whether to suspend, revoke, or refuse to renew the license. The hearing shall be not less than twenty nor more than thirty days after the mailing or service of the notice. This section is repealed January 1, 1981.

NEW SECTION. INTERIM FEDERAL PROGRAM.

1. The general assembly declares that because the federal Surface Mining Control and Reclamation Act of 1977, (Public Law ninety-five dash eighty-seven (95-87)), provides for a permit system to regulate surface mining operations and the acquisition and reclamation of abandoned mines, and provides that permits may be issued by states which are authorized to implement the provisions of that Act, it is in the interest of the people of Iowa to cooperate in implementing the provisions of the federal Surface Mining Control and Reclamation Act of 1977.

2. Where the provisions of the initial regulatory program developed pursuant to the federal Surface Mining Control and Reclamation Act of 1977, (Public Law ninety-five dash eighty-seven (95-87)) and contained in thirty (30), Code of Federal Regulations, sections seven hundred ten (710), seven hundred fifteen (715), seven hundred sixteen (716), seven hundred seventeen (717), seven hundred eighteen (718) and seven hundred twenty (720), exceed the requirements of chapter eighty-three A (83A) of the Code and are presently practicable, the department of soil conservation shall confer with and negotiate with the office of surface mining reclamation and enforcement of the United States department of the interior and may adopt rules necessary to continue the issuance of mining permits. This section is repealed January 1, 1981.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Record, a newspaper published in Cedar Falls, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

Approved May 5, 1978

I hereby certify that the foregoing Act, House File 2354, was published in The Record, Cedar Falls, Iowa on May 13, 1978, and in The Sioux City Journal, Sioux City, Iowa on June 8, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1052

SECOND INJURY WORKERS' COMPENSATION

H. F. 2435

AN ACT relating to providing additional funding for the second injury under workers' compensation.

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

Section 1. Section eighty-five point sixty-five (85.65), Code 1977, is amended to read as follows:

85.65 PAYMENTS TO SECOND INJURY FUND. The employer, or, if insured, his or her insurance carrier in each case of compensable injury causing death shall pay to the treasurer of state for the second injury fund the sum of one hundred thousand dollars, said payment to be made at the time compensation payments are begun, or at the time the burial expenses are paid in a case where there are no dependents; provided, however, that such payments shall be required only in cases of injury resulting in death coming within the purview of this chapter and occurring after July ~~47-4945~~ 1, 1978. These payments shall be in addition to any payments of compensation to injured employees or their dependents, or of burial expenses as provided in this chapter.

Sec. 2. Section eighty-five point sixty-six (85.66), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

When the total amount of such payments provided for in the preceding section, together with accumulated interest thereon and earnings, equals or exceeds fifty one hundred thousand dollars no further contributions to said fund shall be required; but whenever, thereafter, the amount of such sum shall be reduced below ~~thirty~~ fifty thousand dollars by reason of payments made to employees pursuant to the provisions of this division, the said contributions shall be resumed forthwith and shall continue until such sum, together with accumulated interest and earnings, shall again amount to fifty one hundred thousand dollars. The industrial commissioner shall promulgate rules for the maintenance of the second injury fund and the making of contributions thereto, and shall determine when the contributions shall be made to said fund and when they shall be suspended; and he or she is hereby

empowered and authorized to enforce said rules and the collection of said contributions.

Approved June 2, 1978

CHAPTER 1053
FIRE FIGHTERS CLOTHING AND EQUIPMENT

H. F. 606

AN ACT relating to the standards for protective clothing and equipment used by fire fighters.

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

Section 1. Section eighty-eight point five (88.5), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The commissioner shall establish standards and promulgate rules for protective helmets, boots, fire coats, trousers, gloves, work uniforms and may set standards for any other protective clothing or equipment which shall be worn or used by fire fighters within the state. In establishing these standards, the commissioner shall consider the standards of or proposed by the national fire protection association, the international association of fire fighters and any federal agency which may have such standards. The commissioner shall provide a copy of the standards, rules and any changes thereto to each fire department operating in this state. The standards established and the rules promulgated hereunder shall apply to protective clothing and equipment worn or used by every fire fighter in the state, provided that the standards and rules shall be advisory rather than mandatory for volunteer fire departments.

Sec. 2. The standards promulgated by the commissioner under the provisions of this Act shall be effective for all equipment purchased after January 1, 1979. All equipment for which standards are established under the provisions of this Act shall meet the standards promulgated under the provisions of this Act prior to January 1, 1981.

Approved May 12, 1978

CHAPTER 1054
LABOR COMMISSIONER

S. F. 2233

AN ACT changing fees for designated safety inspections and licenses conducted or issued under the jurisdiction of the commissioner of labor.

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

Section 1. Section eighty-eight A point one (88A.1), subsection seven (7), Code 1977, is amended to read as follows:

7. "Concession booth" means a structure, or enclosure, ~~located~~ used at a more than one fair or carnival from which amusements are offered to the public.

Sec. 2. Section eighty-eight A point four (88A.4), Code 1977, is amended to read as follows:

88A.4 PERMIT AND INSPECTION FEES. Annual inspection fees under this chapter shall be as follows:

1. ~~Permit fees, ten dollars per year.~~

a. One through ten rides, or devices or concessions, ten dollars.

b. Eleven or more rides, or devices or concessions, twenty dollars.

2. Mechanical and electrical inspection fees for amusement rides and devices, ~~forty dollars for each inspection.~~

a. For rides which are designed for seventy-five pounds or less per passenger unit, fifty dollars for each inspection.

b. For rides which are designed for seventy-five pounds or more and for which the manufacturer's recommended assembly time is less than forty work hours, seventy-five dollars for each inspection.

c. For rides for which the manufacturer's recommended assembly time is forty work hours or more, one hundred dollars for each inspection.

3. Electrical inspection of ~~concessions,~~ concession booths, and amusement devices fees, ~~fifteen~~ twenty-five dollars each.

4. Special inspectors authorization fee, two dollars each. The special inspectors authorization shall allow a person to perform inspections only on rides, devices, and concession booths of an operator who makes the request for the special inspectors authorization.

Sec. 3. Section eighty-nine point seven (89.7), subsections one (1), two (2), three (3), four (4) and five (5),

Code 1977, are amended to read as follows:

1. Boilers having a working pressure to seventy pounds per square inch, ~~ten~~ twenty-five dollars for one each boiler ~~and-eight-dollars-for-each-additional-boiler-of-like-size when-set-in-batteries.~~

2. Boilers having a working pressure of seventy-one pounds to and including one hundred fifty pounds per square inch, ~~twelve~~ twenty-nine dollars for one each boiler ~~and-ten-dollars for-each-additional-boiler-of-like-size-when-set-in-batteries.~~

3. Boilers having a working pressure of one hundred fifty-one pounds to four hundred fifty pounds per square inch, ~~fourteen~~ thirty-three dollars for one each boiler ~~and-twelve dellars-for-each-additional-boiler-of-like-size-when-set-in batteries.~~

4. Boilers having a working pressure of four hundred fifty-one pounds and excess per square inch, ~~eighteen~~ forty-one dollars for one each boiler ~~and-twelve-dollars-for-each additional-boiler-of-like-size-when-set-in-batteries.~~

5. Steam stills, tanks, jacket kettles, sterilizers and all other reservoirs fired or unfired having a working pressure in excess of fifteen pounds per square inch, shall be charged ~~for-the-first-piece-of-equipment~~ as follows for each piece of equipment: Fifteen pounds to seventy pounds per square inch, ten dollars; seventy-one pounds to one hundred fifty pounds per square inch, twelve dollars; one hundred fifty-one pounds to four hundred fifty pounds per square inch, fourteen dollars. ~~Additional-equipment-shall-be-charged-for at-the-same-rate-as-boilers.~~

Sec. 4. Section eighty-nine point seven (89.7), Code 1977, as amended by House File two thousand sixty-nine (2069), section eight (8), as enacted by the Sixty-seventh General Assembly, 1978 Session, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding the provisions of subsection two (2) of this section, the fee for miniature model boilers constructed and maintained as a hobby and not for commercial use that have an inside diameter of twelve inches or less and a grate area not exceeding one square foot shall be twelve dollars.

Sec. 5. Section ninety-five point four (95.4), Code 1977, is amended to read as follows:

95.4 FEE. The annual license fee shall be fifty seventy-five dollars.

Sec. 6. Section one hundred four point three (104.3), subsection one (1), paragraph k, Code 1977, is amended to read as follows:

k. The amount of fees charged and collected for inspection, permits, and licenses. Fees shall be set at an amount sufficient to cover costs as determined from consideration of the reasonable time required to conduct an inspection, reasonable hourly wages paid to inspectors, and reasonable transportation and similar expenses.

Sec. 7. The provisions of sections two (2) through six (6) of this Act are effective July 1, 1978.

Sec. 8. This Act shall take effect and be in force from and after its publication in the Ankeny Press-Citizen, a newspaper published in Ankeny, Iowa, and in The Cedar Valley Daily Times, a newspaper published in Vinton, Iowa.

Approved May 15, 1978

I hereby certify that the foregoing Act, Senate File 2233, was published in the Ankeny Press-Citizen, Ankeny, Iowa on May 25, 1978, and in The Cedar Valley Daily Times, Vinton, Iowa on May 23, 1978

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1055

BOILER INSPECTION

H. F. 2069

AN ACT relating to the inspection of boilers and similar vessels by the bureau of labor.

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

Section 1. Section eighty-nine point one (89.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

89.1 AUTHORITY. The labor commissioner shall enforce the provisions of this chapter and may employ qualified personnel under the provisions of chapter nineteen A (19A) of the Code to administer the provisions of this chapter.

The provisions of this chapter shall apply to all boilers and unfired steam pressure vessels in this state, except as otherwise provided in this chapter.

Sec. 2. Chapter eighty-nine (89), Code 1977, is amended by adding the following new section after section eighty-nine

point one (89.1) of the Code:

NEW SECTION. DEFINITIONS. For the purpose of this chapter unless the context otherwise requires:

1. "Commissioner" means the labor commissioner or his or her designee.
2. "Special inspector" means an inspector who holds a commission from the commissioner of labor and who is not a state employee.
3. "Place of public assembly" means any building or portion of a building designed, intended, and used for occupation by persons for purposes of entertainment, instruction, or amusement and shall include theaters, motion picture theaters, hospitals, places of worship, schools, colleges, and institutions of health and custodial care.
4. "Boiler" means a vessel in which water or other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat.
5. "Steam heating boiler" means a boiler operating at not more than fifteen pounds per square inch; or a hot water heating boiler operating at not more than one hundred sixty pounds per square inch and not more than two hundred fifty degrees Fahrenheit at the boiler outlet.
6. "Unfired steam pressure vessel" means a vessel or container used for the containment of steam pressure either internal or external in which the pressure is obtained from an external source.
7. "Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than fifteen pounds per square inch or a water boiler intended for operation at pressures in excess of one hundred sixty pounds per square inch or temperatures in excess of two hundred fifty degrees Fahrenheit.

Sec. 3. Section eighty-nine point two (89.2), Code 1977, is amended to read as follows:

89.2 INSPECTION MADE--CERTIFICATE.

1. It shall be the duty of the ~~state-boiler-inspector commissioner~~, to inspect or cause to be inspected internally and externally, at least once every twelve months, except as otherwise provided in this section, in order to determine whether all such equipment is in a safe and satisfactory condition, and properly constructed and maintained for the purpose for which ~~the-same~~ it is used, all ~~steam boilers, tanks,~~

~~jacket-kettles, generators, all steam boilers used for heating purposes carrying a pressure of not more than fifteen pounds per square inch gauge and located in places of public assembly, all hot water heating boilers carrying a pressure of not more than thirty pounds per square inch gauge~~ and unfired steam pressure vessels operating in excess of fifteen pounds per square inch, all low pressure heating boilers and unfired steam pressure vessels located in places of public assembly and other appurtenances used in this state for generating or transmitting steam for power, or for using steam under pressure for heating or steaming purposes, ~~in order to determine whether said equipment is in a safe and satisfactory condition, and properly constructed and maintained for the purpose for which the same is used.~~

2. The ~~labor~~ commissioner and the boiler inspectors shall have the right and power to may enter any building or structure, public or private, for the purpose of inspecting any equipment covered by this chapter or gathering information with reference thereto.

3. Upon making an inspection of any equipment covered by this chapter, the ~~inspector~~ commissioner shall give issue to the owner or user thereof a certificate of inspection, ~~upon forms prescribed by the labor commissioner,~~ which certificate shall be posted ~~in~~ at a place near the location of ~~said~~ the equipment.

4. The owner or user of any equipment covered in this chapter, or persons in charge of same, shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the ~~inspector~~ commissioner.

5. The ~~boiler inspector is hereby empowered to~~ commissioner may inspect boilers and tanks and other equipment stamped with the American* society of* mechanical* engineers code symbol for other than steam pressure, manufactured in Iowa, when requested by the manufacturer.

6. Each ~~fired steam~~ boiler of one hundred thousand pounds per hour or more capacity, used or proposed to be used within this state, which has internal continuous water treatment under the direct supervision of a graduate engineer or chemist, or one having equivalent experience in the treatment of boiler water where the ~~said~~ water treatment is for the purpose of controlling and limiting serious corrosion and other deteriorating factors, and with respect to which boiler the ~~state boiler inspector~~ commissioner has determined that the owner or user has complied with the record keeping requirements

*According to enrolled Act

hereafter prescribed, shall be inspected at least once every two years internally and externally while not under pressure, and at least once every two years externally while under pressure by the state boiler inspector or by one of the deputy inspectors as to its construction, installation, condition and operation. ~~if-at~~ At any time a hydrostatic test shall be deemed necessary to determine the safety of a boiler, ~~the same shall be made, under the supervision of the inspector,~~ tests shall be conducted by the owner or user ~~thereof~~ of the equipment under the supervision of the commissioner.

~~Not more than twenty-four months shall elapse between internal inspections, and external inspections while under pressure shall also be made at no greater intervals.~~

7. The owner or user of such a boiler of one hundred thousand pounds per hour or more capacity desiring to qualify for biennial inspection shall keep available for examination by the ~~state boiler inspector or by any of the deputy inspectors~~ commissioner accurate records showing the date and actual time ~~such~~ the boiler is out of service and the reason or reasons therefor, and ~~such~~ the chemical physical laboratory analysis of samples of the boiler water taken at regular intervals of not more than forty-eight hours of operation as will adequately show the condition of ~~such~~ the water and any elements or characteristics thereof which are capable of producing corrosion or other deterioration of the boiler or its parts.

8. Internal inspections of sectional cast iron steam and cast iron hot water heating boilers shall be conducted only as deemed necessary by the commissioner. External operating inspections shall be conducted annually.

9. Internal inspections of steel hot water boilers shall be conducted once every six years. The initial inspection of all affected boilers shall be apportioned by the commissioner over the six-year period after the effective date of this Act. External operating inspections shall be conducted annually.

10. All power boilers that are converted to low pressure boilers shall have a fifteen pound safety valve installed and be approved by the commissioner no later than thirty days after the expiration date of the certificate for the boiler.

Sec. 4. Section eighty-nine point three (89.3), Code 1977, is amended to read as follows:

89.3 BOILERS EXEMPT.

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

a. Boilers of railway locomotives subject to federal inspection, boilers.

b. Boilers operated and regularly inspected by railway companies operating in interstate commerce, boilers.

c. Boilers under the jurisdiction and subject to inspection by the United States government, boilers.

d. Steam heating boilers and unfired steam pressure vessels associated therewith and mobile power boilers used exclusively for agricultural purposes, heating.

e. Heating boilers in residences, buildings, except buildings of public assembly as defined in section 89.12 and apartment houses using a pressure of less than fifteen pounds per square inch or having a safety valve set at not higher than fifteen pounds pressure per square inch, and fire.

f. Fire engine boilers brought into the state for temporary use in times of emergency.

g. Low pressure heating boilers used in buildings other than those for public assembly.

All high-pressure boilers that are converted to low-pressure boilers shall have a fifteen-pound safety valve installed and be approved by a commissioned inspector from the bureau of labor not later than thirty days after the expiration date of the certificate for said boiler.

2. Unfired steam pressure vessels not exceeding the following limitations are not required to be reported to the bureau of labor commissioner and shall be exempt from regular inspection under provisions of this chapter:

4 a. A vessel not greater than five cubic feet in volume and not having a pressure greater than two hundred fifty pounds per square inch.

2 b. A vessel not greater than one and one-half cubic feet in volume with no limit on pressure.

3. Internal inspection inspections shall not be required on unfired steam pressure vessels where they have been manufactured without inspection plate and where it would be necessary for them to be drilled in order to be inspected as required in section 89.27--The above-mentioned unfired pressure vessels must be reported to the bureau of labor and certified by the inspector that in his judgment they are safe and in satisfactory condition for the purpose for which they are used. The existence of such unfired pressure vessels shall

be reported to the commissioner, and certified by the commissioner that the unfired pressure vessel is in a satisfactory condition for the purpose for which it is used.

Sec. 5. Section eighty-nine point four (89.4), Code 1977, is amended to read as follows:

89.4 RULES--RECORDS.

1. The commissioner ~~of-labor-is-hereby-authorized-and empowered-to~~ may prescribe rules ~~within~~ under the provisions of ~~this~~ chapter seventeen A (17A) of the Code, for the purpose of carrying ~~the-same-into-effect~~ out the provisions of this chapter, including rules for the methods of testing equipment and construction and installation of new equipment covered by this chapter, and ~~said~~ the rules shall, as nearly as possible, conform to the rules formulated by the boiler code committee of the American society of mechanical engineers ~~and-known-as-the-American-society-of-mechanical-engineers boiler-code-of-1937-as-amended~~.

2. The ~~state-boiler-inspector~~ commissioner shall investigate and ~~report-to-the-commissioner~~ record the cause of any boiler explosion that may occur in the state, the loss of life, injuries sustained, and estimated loss of property, if any; and such other data as may be of benefit in preventing a recurrence of similar explosions.

3. He ~~The~~ commissioner shall keep ~~in-the-office-of-the commissioner~~ a complete and accurate record of the name of the owner or user of each steam boiler or other equipment subject to this chapter, giving a full description of ~~said~~ the equipment, including the type, dimensions, age, condition, the amount of pressure allowed, and the date when last inspected.

Sec. 6. Section eighty-nine point five (89.5), Code 1977, is amended to read as follows:

89.5 NEW BOILERS--NOTICE TO COMMISSIONER. Before any equipment included under the provisions of this chapter is installed by any owner, user or lessee thereof, a ten days' written notice of intention to install ~~same~~ the equipment shall be given to the commissioner ~~of-labor~~. The notice shall designate the proposed place of installation, the type and capacity of ~~such~~ the equipment, the use to be made thereof, the name of company which manufactured ~~same~~ the equipment, and whether ~~said~~ the equipment is new or used.

Sec. 7. Section eighty-nine point six (89.6), Code 1977, is amended to read as follows:

89.6 INSURED BOILERS--CERTIFICATE OF INSPECTION.

1. The inspection required by this chapter shall not be made by the ~~state-boiler-inspector~~ commissioner where any owner or user of any equipment specified by this chapter obtains an inspection by a representative of a reputable insurance company and obtains a policy of insurance ~~from-said company~~ upon ~~said the~~ equipment from that insurance company. The representative conducting the inspection shall be commissioned by the commissioner as a special inspector for the year during which the inspection occurs and shall meet such other requirements as the commissioner may by rule establish. The commission shall be valid for one year and the special inspector shall pay a ten dollar fee for the issuance of the commission.

2. The insurance company shall file a certificate of inspection on forms approved by the commissioner ~~of-labor~~ stating that ~~such the~~ equipment is insured and that inspection shall be made in accordance with section 89.2. Upon-such showing-and-the-payment-of-a-fee-of-five-dollars-the commissioner-of-labor-shall-issue-a-certificate-of-inspection by-the-bureau-of-labor-which-shall-be-valid-only-for-the period-specified-in-section-89-2-

3. Upon such showing and the payment of a fee of five dollars for each one-year inspection and ten dollars for each two-year inspection, the commissioner ~~of-labor~~ shall issue a certificate of inspection by the bureau of labor, which shall be valid only for the period specified in section 89.2.

4. The ~~state-boiler~~ special inspector shall notify the user and the commissioner of any equipment or appurtenance found to be unsafe or unfit for operation in writing, setting forth the nature and extent of such defects and condition. ~~Said-notice~~ The commissioner shall indicate to the user whether or not said the equipment shall may be used without making repair or replacement of defective parts, or whether or how said the equipment may be used in a limited capacity before repairs or replacements are made, and the state-boiler inspector commissioner may permit the user a reasonable time to make such repairs or replacements.

Sec. 8. Section eighty-nine point seven (89.7), subsections five (5), six (6), and seven (7), Code 1977, are amended to read as follows:

5. Steam stills, tanks, jacket kettles, sterilizers and all other reservoirs fired or unfired having a working pressure in excess of fifteen pounds per square inch, shall be charged

for ~~the-first-piece-of-equipment~~*as follows: Fifteen pounds to seventy pounds per square inch, ten dollars; seventy-one pounds to one hundred fifty pounds per square inch, twelve dollars; one hundred fifty-one pounds to four hundred fifty pounds per square inch, fourteen dollars. Additional equipment shall be charged for at the same rate as boilers.

6. If at any time the owner, user or agent of the owner of a steam boiler or equipment within the state shall ~~desire~~ a-special request an inspection of any boiler or equipment, it shall be made by the ~~boiler-inspection-department~~ commissioner after due a request therefor, and the ~~inspector~~ making-the-inspection commissioner shall collect a fee of twenty dollars for each boiler, together with ~~his~~ the expenses in connection therewith.

7. Inspections and code qualification surveys made by the commissioner at the request of a boiler or tank manufacturer ~~by-the-chief-inspector-or-any-deputy-inspector~~, shall be charged for at the a rate set by the commissioner not to exceed the rate currently charged by the various insurance companies for performing a similar service. This charge shall not void the regular fee for inspection or ~~cer-~~ tificate certification when the boiler or tank is installed.

Sec. 9. Section eighty-nine point eight (89.8), Code 1977, is amended to read as follows:

89.8 DISPOSAL OF FEES. All fees provided for in this chapter shall be collected by the commissioner ~~of-labor~~ and remitted to the ~~state~~ treasurer of state, together with an itemized statement showing the source of collection.

Sec. 10. Section eighty-nine point eleven (89.11), Code 1977, is amended to read as follows:

89.11 HEARING--NOTICE--DECREE. The commissioner shall notify in writing the owner or user of ~~said the~~ said the equipment of the time and place of hearing of ~~said the~~ said the petition as fixed by the court or judge, and shall serve ~~said the~~ said the notice on the defendant at least five days prior to ~~said the~~ said the hearing in the same manner as original notices are served. The general provisions relating to civil practice and procedure as may be applicable, shall govern the proceedings, except as herein modified. In the event the defendant does not appear or plead to ~~said the~~ said the action, default shall be entered against the defendant. The action shall be tried in equity, and the court or judge shall make such order or decree as the evidence warrants.

*See ch 1054, §3

Sec. 11. Section eighty-nine point twelve (89.12), Code 1977, is repealed.

Approved March 17, 1978

CHAPTER 1056

ENERGY RESOURCES DEVELOPMENT

S. F. 2209

AN ACT relating to energy resources by encouraging the development and use of solar energy and by providing property tax exemptions for coal held in inventory, solar energy systems, methane gas production systems.

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

Section 1. Chapter ninety-three (93), Code 1977, is amended by adding sections two (2) through eleven (11) of this Act.

Sec. 2. NEW SECTION. LEGISLATIVE FINDINGS. The general assembly finds that:

1. The public health, safety, and welfare of the people of the state of Iowa require that an adequate supply of energy be made available to them at all times.
2. Nonrenewable energy sources are becoming more limited.
3. State government has an obligation to encourage the use of alternative renewable energy sources.
4. Solar energy systems are an effective means of reducing the dependence of the state government and the people of the state on imported energy sources and of conserving valuable fossil fuel and other nonrenewable energy sources.
5. It is in the public interest to define solar energy systems, demonstrate and study solar energy applications, apply incentives for using solar energy including property tax exemptions, educate the public on solar technology and coordinate governmental programs affecting solar energy.

Sec. 3. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Conventional energy system" means an energy system using fossil fuel, nuclear or hydroelectric energy and the components of the system, including transmission lines, burners, furnaces, tanks, boilers, related controls, distribution systems, room or area units and other components.
2. "Joint solar energy system" means a solar energy system involving at least two owners or users that supplies energy

for structures or processes on more than one lot or in more than one condominium unit or leasehold, but not to the general public.

3. "Solar energy system" means a system of equipment capable of collecting and converting incident solar radiation, wind energy or organic materials into heat, mechanical or electrical energy and transforming these forms of energy by a separate apparatus to a point of storage or end use.

4. "Solar skyspace" means the maximum three dimensional space extending from a solar energy collector to all positions of the sun necessary for efficient use of the collector.

5. "Public energy supplier" means any publicly, privately, municipally or cooperatively owned utility that furnishes electricity or gas to the general public for a fee.

Sec. 4. NEW SECTION. PROGRAM CREATED. There is created the Iowa comprehensive solar energy program under the direction of the council. The director of energy policy shall administer the program and may accept, receive and administer and may expend with the approval of the council, any gifts, grants or other public or private funds for the program. The director shall cooperate with and use the facilities and resources of existing state agencies, public and private educational institutions, business, civic associations, industrial and professional representatives and local governments in carrying out the provisions of this Act.

Sec. 5. NEW SECTION. DEMONSTRATION PROJECTS. The council shall prepare a plan for instituting a variety of solar energy system demonstration projects in public and private buildings or for public and private use throughout the state and shall make such plan available to the general assembly.

Sec. 6. NEW SECTION. INCENTIVE PROGRAM. The council, in cooperation with appropriate state agencies, shall develop an incentive program for encouraging the construction and use of cost effective solar energy systems within this state. Development of the incentive program shall include studies of:

1. Laws, regulations, ordinances, rules and plans for the purpose of determining the extent to which the laws, regulations, ordinances, rules and plans inhibit or encourage the use of solar energy systems.
2. The market penetration of solar energy systems.
3. Solar skyspace rights.
4. Performance standards for solar energy systems.

The council shall submit a progress report of its findings

and recommendations concerning incentive programs and studies mandated by this section to the general assembly not later than January 15, 1979 and periodically thereafter as necessary. The initial progress report shall include bill drafts necessary to implement the council's solar skyspace rights recommendations.

Sec. 7. NEW SECTION. ASSISTANCE PROGRAM. The council may provide upon request any technical or available financial assistance deemed necessary to encourage the development of solar energy systems in this state, under the provisions of section ninety-three point fourteen (93.14) of the Code.

Sec. 8. NEW SECTION. PUBLIC EDUCATION. The council may, in cooperation with other state agencies, units of local government, and other institutions, plan, prepare, and develop educational programs for the public regarding the use of solar energy systems. However to the maximum extent feasible, the council shall leave the responsibility for actually implementing the solar energy educational programs to existing state agencies, units of local government, and other institutions responsible for educating the public.

Sec. 9. NEW SECTION. STUDY OF PUBLIC ENERGY SUPPLIERS AND SOLAR ENERGY. The council shall, in cooperation with the Iowa state commerce commission, study the relationship between public energy suppliers and the use of solar energy systems and shall make recommendations concerning its findings to the general assembly. The study shall identify different scenarios relating to the development and use of solar energy and shall determine for each scenario ways to:

1. Integrate the supply of conventional energy with solar energy systems at reasonable rates and under reasonable conditions of service; and
2. Minimize the economic and load impact on public energy suppliers of the use of solar energy systems; and
3. Develop criteria for load forecast projections in the service area of public energy suppliers which consider the potential use of solar energy systems.

Sec. 10. NEW SECTION. SOLAR ENERGY SYSTEM REGULATION STUDY. The Iowa state commerce commission shall, in cooperation with the council, study the impacts of the use of joint solar energy systems and shall make recommendations concerning its findings to the general assembly. The study shall:

1. Estimate the rate of development and use of joint solar energy systems through 1985.

2. Examine the need for regulation of joint solar energy systems, the administrative costs of regulation and enforcement mechanisms.

3. Examine the need for the use of the power of eminent domain.

4. Determine the effects on service areas, cost of service and other effects of the use of joint solar energy systems on public energy suppliers.

5. Identify ways to prevent undue economic hardship on the public energy supplier and its customers.

6. Identify ways to promote the development and use of joint solar energy systems.

The study shall also examine the need for regulation of the financing, sales and service of solar energy systems.

Sec. 11. NEW SECTION. PROVISION OF SOLAR ENERGY SYSTEMS BY PUBLIC ENERGY SUPPLIERS. The financing, sales and service of solar energy systems shall be a valid service and purpose of a public energy supplier. However nothing in this section shall be construed to prohibit within the service area as determined under sections four hundred seventy-six point twenty-two (476.22) through four hundred seventy-six point twenty-five (476.25) of the Code of a public energy supplier:

1. The financing, sales and service of solar energy systems by an individual, corporation or institution that is not a public energy supplier.

2. The financing of solar energy systems by a unit of government that is not a public energy supplier.

Sec. 12. Section four hundred forty-one point twenty-one (441.21), subsection three (3), Code 1977, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Notwithstanding unnumbered paragraph one (1) of this subsection, any construction or installation of a solar energy system or gas production systems using waste or manure to produce gas completed on property classified as agricultural, residential, commercial, or industrial property shall not increase the actual, assessed and taxable values of such property for assessment years beginning on January 1, 1979 and ending on or before December 31, 1985.

NEW UNNUMBERED PARAGRAPH. As used in this subsection "solar energy system" means a system of equipment capable of collecting and converting incident solar radiation or wind energy into heat, mechanical or electrical energy and

transforming these forms of energy by a separate apparatus to storage or to point of use.

Sec. 13. Section four hundred twenty-seven point one (427.1), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Coal which is held in inventory to be used for methane gas production or other purposes by a person, corporation, partnership, or other business entity, except coal held in inventory which is owned by a person, corporation, partnership, or other business entity whose property is assessed by the department of revenue pursuant to sections four hundred twenty-eight point twenty-four (428.24) to four hundred twenty-eight point twenty-nine (428.29) of the Code or chapters four hundred thirty-three (433) to four hundred thirty-eight (438) of the Code.

Sec. 14. Chapter four hundred seventy-six (476), Code 1977, is amended by adding the following new section:

NEW SECTION. DISCRIMINATION PROHIBITED. A municipality, corporation or cooperative association providing electrical or gas service shall not consider the use of renewable energy sources by a customer as a basis for establishing discriminatory rates or charges for any service or commodity sold to the customer or discontinue services or subject the customer to any other prejudice or disadvantage based on the customer's use or intended use of renewable energy sources. As used in this section, "renewable energy sources" includes but is not limited to, solar heating, wind power and the conversion of urban and agricultural organic wastes into methane gas and liquid fuels.

Sec. 15. The code editor shall place sections two (2) through eleven (11) of this Act as a new division in chapter ninety-three (93) of the Code.

Approved June 14, 1978

CHAPTER 1057

LAND PRESERVATION POLICY

H. F. 2335

AN ACT relating to the administration of the temporary state land preservation policy commission.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter fifty-three (53), section four (4), subsection one (1), is amended to read as follows:

1. Prior to the congressional district convention, the members of the temporary county land preservation policy commission shall appoint one-third of its membership to attend the convention. One member shall be appointed by and from the members appointed under subparagraph a of subsection one (1) of section three (3) of this Act, one member shall be appointed by and from the members appointed under subparagraph b of that subsection, and one member for each three members appointed under subparagraph c of that subsection shall be appointed by and from those members. Nine months from the effective date of this Act, the members of the temporary county land preservation policy commissions in the counties located within each congressional district who have been appointed to attend the convention shall convene and elect three members and three alternate members to the temporary state land preservation policy commission. Of the three members and alternates, one of each shall be elected by the members of the temporary county land preservation policy commission appointed under subparagraph a of subsection one (1) of section three (3) of this Act, one of each by the members appointed under subparagraph b of that subsection, and one of each by the members appointed under subparagraph c of that subsection. Each member and alternate member shall be a member of a temporary county land preservation policy commission appointed under the same subparagraph as the members of the temporary county land preservation policy commission electing that member and alternate member. The alternate member shall serve on the temporary state land preservation policy commission upon the death, resignation or disqualification of the member elected with that alternate member. The state agricultural extension service shall provide assistance in making the arrangements for the conventions. Each member present of each temporary county land preservation

policy commission shall have one vote at the convention.

Sec. 2. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter fifty-three (53), section four (4), subsection six (6), is amended to read as follows:

6. Each state agency and agency of a political subdivision of the state shall cooperate, within time, personnel and budgetary limitations, in providing information, data, surveys and studies as requested by the temporary state land preservation policy commission. The legislative council shall, prior to the election of the temporary state land preservation policy commission, appoint an executive secretary of the commission. The executive secretary may employ professional assistants within the limits of available funds subject to the approval of the legislative council. Prior to the organization of the temporary state land preservation policy commission, the executive secretary shall compile and develop information which will be of assistance to the commission in executing its duties. The temporary state land preservation policy commission shall be administratively attached to the department of soil conservation. The department of soil conservation shall provide support services to the temporary state land preservation policy commission.

Sec. 3. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Record-Herald and Indianola Tribune, a newspaper published in Indianola, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

Approved May 8, 1978

I hereby certify that the foregoing Act, House File 2335, was published in The Record-Herald and Indianola Tribune, Indianola, Iowa on May 15, 1978, and in The Sioux City Journal, Sioux City, Iowa on May 15, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1058

JOB SERVICE CLAIMS APPEAL BOARD

H. F. 2176

AN ACT relating to the claims appeal board of the Iowa department of job service.

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

Section 1. Section ninety-six point six (96.6), subsection four (4), unnumbered paragraph four (4), Code 1977, is amended to read as follows:

Members of the appeal board shall each be paid ~~twenty-one thousand-seven-hundred-fifty~~ a salary set by the governor, within a range of from eighteen thousand nine hundred dollars to twenty-six thousand six hundred dollars annually ~~until July 4, 1978 and.~~ Each member shall receive be allowed actual and necessary expenses, ~~---Thereafter each member shall be paid forty dollars per day for each day of official business of the appeal board and shall receive actual and necessary expenses, including travel,~~ in the same amounts paid to other state employees incurred in the performance of their duties from funds appropriated to the department.

Approved April 27, 1978

CHAPTER 1059

UNEMPLOYMENT COMPENSATION CONTRIBUTIONS

S. F. 2270

AN ACT providing for procedures to recover payments of unemployment compensation in order to maintain the approval of the state law by the secretary of labor to assure an employer tax credit of two point seven percent for required unemployment compensation contributions, and to assure federal funding of the administration of the Iowa unemployment compensation program.

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

Section 1. Chapter ninety-six (96), Code 1977, is amended by adding the following new section:

NEW SECTION. LIABILITY OF CERTAIN EMPLOYERS. Employers who by election or determination of the Iowa department of job services are liable for payments in lieu of contributions shall not be relieved of any regular benefit charges or

extended benefit charges by any provision of this chapter.

Sec. 2. Section ninety-six point sixteen (96.16), subsection four (4), Code 1977, is amended to read as follows:

4. MISREPRESENTATION. Any person who, by reason ~~of any error, or by reason~~ of the nondisclosure or misrepresentation by him or her or by another, of a material fact ~~(irrespective of whether such nondisclosure or misrepresentation was known or fraudulent)~~ has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in his or her case, or while he or she was disqualified from receiving benefits, shall, in the discretion of the department, either be liable to have such sum deducted from any future benefits payable to him or her under this chapter or shall be liable to repay to the department for the unemployment compensation fund, a sum equal to the amount so received by him or her, and such sum shall be collectible in the manner provided in section 96.14, subsection 3, for the collection of past-due contributions.

Sec. 3. Chapter ninety-six (96), Code 1977, is amended by adding the following new section:

NEW SECTION. ERROR IN RECEIVING BENEFITS. Whenever a person receives any sum as benefits and the person is subsequently determined to be ineligible and the person acted in good faith and is not otherwise at fault, the benefits may be recovered unless the recovery would be contrary to equity or good conscience. Recovery shall be made either by having the sum deducted from any future benefits payable to the person or by having the person paying to the department a sum equal to the amount received. The person who is liable to repay the benefits may select the method for repayment.

Approved June 14, 1978

CHAPTER 1060
PUBLIC RETIREMENT SYSTEMS

H. F. 2426

AN ACT relating to certain public retirement systems and making an appropriation.

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

Section 1. Section ninety-seven A point one (97A.1), subsections seven (7), eight (8), twelve (12), seventeen (17), nineteen (19), and twenty (20), Code 1977, are amended to read as follows:

7. "Beneficiary" shall mean any person receiving ~~a pension, an annuity,~~ a retirement allowance or other benefit as provided by this chapter.

8. "Surviving spouse" shall mean ~~only-such~~ the surviving spouse or former spouse of a marriage ~~consummated solemnized~~ prior to retirement of a deceased member from active service. Surviving spouse shall include a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section five hundred ninety-eight point seventeen (598.17) of the Code grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, surviving spouse includes a surviving spouse of a marriage of two years or more duration solemnized subsequent to retirement of the member.

12. "Earnable compensation" or "compensation earnable" shall mean the regular compensation which a member would earn during one year on the basis of the stated compensation for ~~his~~ the member's rank or position including compensation for longevity and excluding any amount received for overtime compensation or other special additional compensation, meal and travel expenses, and uniform allowances and excluding any amount received upon termination or retirement in payment for accumulated sick leave or vacation.

17. "Retirement allowance" shall mean the ~~sum-of-the annuity-and-the~~ pension, or any benefits in lieu thereof, granted to a member upon retirement.

19. "Pension reserve" shall mean the present value of all payments to be made on account of any pension, or benefit in lieu of a pension, granted under the provisions of this

chapter, upon the basis of such mortality tables as shall be adopted by the board of trustees and ~~regular~~ interest computed at a rate adopted by the board upon the recommendation of the actuary.

20. "Actuarial equivalent" shall mean a benefit of equal value, when computed upon the basis of mortality tables adopted by the board of trustees, and ~~regular~~ interest computed at a rate adopted by the board upon the recommendation of the actuary.

Sec. 2. Section ninety-seven A point one (97A.1), Code 1977, is amended by striking subsections ten (10), eleven (11), fifteen (15), and eighteen (18).

Sec. 3. Section ninety-seven A point three (97A.3), subsection two (2), Code 1977, is amended to read as follows:

2. Should any member in any period of five consecutive years after last becoming a member, be absent from service for more than four years, ~~or should he withdraw his accumulated contributions~~ or should he or she become a beneficiary or die, he or she shall thereupon cease to be a member of this system.

Sec. 4. Section ninety-seven A point three (97A.3), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Effective July 1, 1979, a person shall not become a member of the system unless that person has passed the physical and mental examination given under the provisions of section eighty point fifteen (80.15) of the Code and unless that person has received a diploma for satisfactory completion of a training school held pursuant to the provisions of section eighty point thirteen (80.13) of the Code.

Sec. 5. Section ninety-seven A point five (97A.5), subsection one (1), Code 1977, is amended to read as follows:

1. BOARD OF TRUSTEES. The general administration and the responsibility for the proper operation of the system and for making effective the provisions of this chapter are hereby vested in a board of trustees to administer the system. Such board of trustees shall be constituted as follows: The commissioner of public safety, who shall be ~~chairman~~ chairperson of said board, the state treasurer, and a an actively engaged member of the system, to be chosen by secret ballot by the members thereof for a term of two years.

Sec. 6. Section ninety-seven A point six (97A.6), subsection one (1), paragraph c, Code 1977, is amended to

read as follows:

c. Any member in service who has been a member of the retirement system fifteen or more years and whose employment is terminated prior to the member's retirement, other than by death or disability, shall upon attaining retirement age, receive a service retirement allowance of fifteen twenty-seconds of the retirement allowance the member would receive at retirement if the member's employment had not been terminated, and an additional one twenty-second of such retirement allowance for each additional year of service not exceeding twenty-two years of service. The amount of the retirement allowance shall be based on the average final compensation at the time of termination of employment. ~~The allowance shall not be available to a member who has chosen to withdraw the member's accumulated contributions as provided in subsection 40 of this section.~~

Sec. 7. Section ninety-seven A point six (97A.6), subsections two (2), four (4), and six (6), Code 1977, are amended to read as follows:

2. ALLOWANCE ON SERVICE RETIREMENT. Upon retirement from service, a member shall receive a service retirement allowance which shall consist of:

~~a--An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and~~

~~b--A a pension given by the state which shall equal one-half of the member's average final compensation.~~

4. ALLOWANCE ON ORDINARY DISABILITY RETIREMENT. Upon retirement for ordinary disability a member shall receive a service retirement allowance if he the member has attained the age of fifty-five, otherwise he the member shall receive an ordinary disability retirement allowance which shall consist of:

~~a--An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and~~

~~b--A a pension which together with the member's annuity shall make a total retirement allowance equal to ninety forty percent of one-seventieth of the member's average final compensation multiplied by the number of years of membership service, if such retirement allowance exceeds one-half of the member's average final compensation, otherwise a pension which together with the member's annuity shall provide a total retirement allowance equal to one-half of the member's average~~

~~final-compensation~~ except if the member has not had five or more years of membership service, the member shall receive a pension ~~which-together-with-the-member's-annuity-shall provide-a-total-retirement-allowance~~ equal to one-fourth of the member's average final compensation.

6. RETIREMENT AFTER ACCIDENT. Upon retirement for accidental disability a member shall receive a service retirement allowance if ~~he~~ the member has attained the age of fifty-five, otherwise ~~he~~ the member shall receive an accidental disability retirement allowance which shall consist of:

~~a--An-annuity-which-shall-be-the-actuarial-equivalent-of-his-accumulated-contributions-at-the-time-of-his-retirement,~~
and

~~b--A~~ a pension, ~~in-addition-to-the-annuity,-of~~ equal to sixty-six and two-thirds percent of ~~his~~ the member's average final compensation.

Sec. 8. Section ninety-seven A point six (97A.6), subsection seven (7), paragraph a, Code 1977, is amended to read as follows:

a. Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over and would have completed twenty-two years of service if he or she had remained in active service, be engaged in a gainful occupation paying more than the difference between ~~his~~ the member's retirement allowance and ~~his-average-final-compensation~~ the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of ~~his-pension~~ the retirement allowance shall be reduced to an amount which together with ~~his-annuity-and~~ the amount earned by ~~him~~ the member shall equal the amount of ~~his-average-final-compensation~~ the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should ~~his~~ the member's earning capacity be later changed, the amount of ~~his-pension~~ the retirement allowance may be further modified, provided, that the new ~~pension~~ retirement allowance shall not exceed the amount of the ~~pension~~ retirement allowance originally granted adjusted by annual readjustments of pensions pursuant to subsection fifteen (15) of this section nor an amount which, when added to the amount earned by the beneficiary ~~together-with-his-annuity,~~ equals the amount of ~~his-average-final-compensation~~ the current earnable

compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have his or her retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit on the amount of income which can be earned in a gainful occupation shall be computed in the same manner as provided in subsection fifteen (15), paragraph d, of this section for readjustment of pensions when a rank or position has been abolished.

A beneficiary retired under the provisions of this paragraph in order to be eligible for continued receipt of retirement benefits shall no later than May fifteenth of each year submit to the board of trustees a copy of his or her state income tax return for the preceding year.

Retroactive to July 1, 1976, the limitations on pay of a member engaged in a gainful occupation who is retired under accidental disability prescribed in this paragraph shall not apply to a member who retired before July 1, 1976.

Sec. 9. Section ninety-seven A point six (97A.6), subsections eight (8), nine (9), thirteen (13), nineteen (19),* and twenty (20),* Code 1977, are amended to read as follows:

8. ORDINARY DEATH BENEFIT. Upon the receipt of proper proofs of the death of a member in service, or a member not in service who has completed fifteen or more years of service as provided in subsection 1, paragraph "c", of this section, there shall be paid to such person having an insurable interest in the member's life as the member shall have nominated by written designation duly executed and filed with the board of trustees:

a. ~~The member's accumulated contributions and, if~~ If the member has had one or more years of membership service and no pension is payable under the provisions of subsection 9 of this section, ~~in addition thereto--~~

~~b.--An~~ an amount equal to fifty percent of the compensation earned by the member during the year immediately preceding the member's death if the member is in service or an amount equal to fifty percent of the compensation earned by the member during the member's last year of service if the member is not in service; or

*According to enrolled Act

b. If there be no such nomination of beneficiary, the benefits provided in ~~paragraphs~~ paragraph "a" and "b" of this subsection 8 shall be paid to the member's estate; or in lieu thereof, at the option of the following beneficiaries, respectively, even though nominated as such, for a member in service there shall be paid a pension which ~~together with the actuarial equivalent of the member's accumulated contributions,~~ shall be equal to one-fourth of the average final compensation of such member, but in no instance less than fifty dollars per month or for a member not in service the pension shall be reduced as provided in subsection 1, paragraph "c", of this section and shall be paid commencing when the member would have attained the age of fifty-five except if there is a child of the member under the age of eighteen, or under the age of twenty-two who is a full-time student, or who is disabled, under the definitions used in section 402 of the Social Security Act as amended to July 1, ~~1976~~ 1978 (42 U.S.C. 402) the pension shall be paid commencing with the member's death until the children reach the age of eighteen, or twenty-two if applicable, and shall resume commencing when the member would have attained the age of fifty-five;

c. To the surviving spouse to continue so long as said partner remains unmarried; or

d. If there be no surviving spouse, or if the spouse dies or remarries before any child of such deceased member shall have attained the age of eighteen years, then to the guardian of the member's child or children under said age, divided in such manner as the board of trustees in its discretion shall determine, to continue as a joint and survivor pension until every such child dies or attains the age of eighteen; or

e. If there be no surviving spouse or child under age eighteen, then to the member's dependent father or mother, as the board of trustees in its discretion shall determine, to continue until remarriage or death.

f. In addition to the benefits herein enumerated, there shall also be paid for each child of a member under the age of eighteen years the sum of twenty dollars per month a monthly pension equal to six percent of the monthly earnable compensation payable to an active member having the rank of senior patrolman of the Iowa highway safety patrol.

For the purpose of this chapter, a senior patrolman is

a man or woman who has completed ten years of service in the Iowa highway safety patrol.

9. ACCIDENTAL DEATH BENEFIT. If, upon the receipt of evidence and proof that the death of a member was the natural and proximate result of an accident or exposure occurring at some definite time and place while the member was in the actual performance of duty, the board of trustees shall decide that death was so caused in the performance of duty there shall be paid, in lieu of the ordinary death benefit provided in subsection 8 of this section, to his the member's estate or to such person having an insurable interest in his or her life as he the member shall have nominated by written designation duly executed and filed with the board of trustees:

~~a. His accumulated contributions, and in addition thereto--~~

~~b.~~ A pension equal to one-half of the average final compensation of such member shall be paid to the surviving spouse, children or dependent parents as provided in paragraphs "c", "d", and "e" of subsection 8 of this section.

~~e~~ b. If there be no surviving spouse, children under the age of eighteen years or dependent parent surviving such deceased member, the death shall be treated as an ordinary death case and the benefit payable in accordance with the provisions of subsection 8, paragraph "b a" of this section, in lieu of the pension provided in paragraph "b a" of this subsection 9, shall be paid to the member's estate.

~~d~~ c. In addition to the benefits for the surviving spouse herein enumerated, there shall also be paid for each dependent child of a member under the age of eighteen years the sum of twenty dollars per month a monthly pension equal to six percent of the monthly earnable compensation payable to an active member having the rank of senior patrolman of the Iowa highway safety patrol.

13. PENSION TO SURVIVING SPOUSE AND CHILDREN OF DECEASED PENSIONED MEMBERS. In the event of the death of any member receiving a retirement allowance under the provisions of subsections 2, 4 or 6 of this section there shall be paid a pension:

a. To the member's surviving spouse to continue so long as said party remains unmarried, equal to one-half the amount received by such deceased beneficiary, but in no instance less than fifty dollars per month, and in addition thereto the sum of twenty dollars per month a monthly pension equal to the monthly pension payable under subsection nine (9), paragraph c, of this section for each child under eighteen

years of age; or

b. In the event of the death of the spouse either prior or subsequent to the death of the member, to the guardian of each surviving child under eighteen years of age, in-the sum-of-twenty-dollars-per-month a monthly pension equal to the monthly pension payable under subsection nine (9), paragraph c, of this section for the support of such child.

Sec. 10. Section ninety-seven A point six (97A.6), Code 1977, is amended by striking subsection ten (10) and subsection fifteen (15), paragraph b.

Sec. 11. Section ninety-seven A point six (97A.6), subsection fifteen (15), paragraph a, Code 1977, is amended to read as follows:

a. As of the first of July of each year, the monthly pensions authorized in this section payable to each retired member and to each beneficiary, except children, of a deceased member shall be recomputed. The formula authorized in this section which was used to compute the retired member's or beneficiary's pension at the time of retirement or death shall be used in the recomputation, except the pension compensation shall be used in lieu of the average final compensation which the retired or deceased member was receiving at the time of retirement or death. The adjusted monthly pension shall be the amount payable at the member's retirement or death adjusted by fifty percent of the difference between the recomputed pension and the amount payable at the member's retirement or death. At no time shall the monthly pension or payment to the beneficiary be less than the amount which was paid at the time of the member's retirement or death.

As of the first of July of each year, the monthly pension payable to each surviving child under the provisions of subsections eight (8), nine (9), and thirteen (13) of this section shall be adjusted to equal six percent of the monthly earnable compensation payable on that July first to an active member having the rank of senior patrolman of the Iowa highway safety patrol.

Sec. 12. Section ninety-seven A point seven (97A.7), Code 1977, is amended by striking subsection three (3).

Sec. 13. Section ninety-seven A point seven (97A.7), subsection six (6), Code 1977, is amended to read as follows:

6. The board of trustees may invest funds of the fire and police retirement systems created under the provisions of chapter 411 in the manner prescribed in this section.

Sec. 14. Section ninety-seven A point eight (97A.8), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

All the assets of the system created and established by this chapter shall be credited according to the purpose for which they are held to one of ~~five~~ three funds, namely, ~~the annuity-savings-fund, the annuity-reserve-fund,~~ the pension accumulation fund, the pension reserve fund, and the expense fund.

Sec. 15. Section ninety-seven A point eight (97A.8), subsection three (3), unnumbered paragraph one (1) and paragraphs a and b, Code 1977, are amended to read as follows:

The pension accumulation fund shall be the fund in which shall be accumulated all ~~reserves~~ moneys for the payment of all pensions and other benefits payable from contributions made by the state and from which shall be paid the lump-sum death benefits for all members payable from the said contributions. Contributions to and payments from the pension accumulation fund shall be as follows:

a. On account of each member there shall be paid annually into the pension accumulation fund by the state of Iowa an amount equal to a certain percentage of the earnable compensation of the member to be known as the "normal contribution". The rate percent of such contribution shall be fixed on the basis of the liabilities of the retirement system as shown by annual actuarial valuations. ~~Until the first-valuation-the-normal-contribution-shall-be-eight-percent.~~

b. On the basis of the rate of interest and of such mortality, interest, and other tables as shall be adopted by the board of trustees, the state commissioner of insurance shall make each valuation required by this chapter and shall immediately after making such valuation, determine ~~the-uniform-and-constant-percentage-of-the-earnable-compensation-of-the-average-new-entrant, which, if-contributed-throughout-his-entire-period-of-active-service, would-be-sufficient-to-provide-for-the-payment-of-any-death-benefit-or-pension-payable-on-this-account.--The-rate-percent-so-determined-shall-be-known~~ as the "normal contribution rate". The normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the sum of the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the

rate of interest and of mortality and service tables adopted by the board of trustees ~~and regular interest~~, all reduced by the employee contribution made pursuant to paragraph f of this subsection. The normal rate of contribution shall be determined by the state commissioner of insurance after each valuation.

Sec. 16. Section ninety-seven A point eight (97A.8), subsection three (3), paragraph f, Code 1977, is amended to read as follows:

f. An amount equal to ~~one~~ two and twenty-one hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund. ~~The provisions of this section, subsection 4, paragraphs "b" and "c", of the Code relating to the contributions of members shall be applicable to this paragraph.~~

Sec. 17. Section ninety-seven A point eight (97A.8), subsection three (3), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. The board of trustees shall certify to the state comptroller and the state comptroller shall cause to be deducted from the earnable compensation of each member the contribution required under this subsection and shall forward the contributions to the board of trustees for recording and for deposit in the pension accumulation fund.

The deductions provided for under this subsection shall be made notwithstanding that the minimum compensation provided by law for any member is reduced. Every member is deemed to consent to the deductions made under this section.

Sec. 18. Section ninety-seven A point eight (97A.8), Code 1977, is amended by striking subsections one (1) and two (2).

Sec. 19. Chapter ninety-seven A (97A), Code 1977, is amended by adding the following new section:

NEW SECTION.

1. Members who became vested and terminated service prior to July 1, 1979, and members receiving an annuity from accumulated contributions made prior to July 1, 1979, shall continue to receive the benefits the member was entitled to under the provisions of chapter ninety-seven A (97A), as chapter ninety-seven A (97A) was effective on the date of the member's retirement or vested termination.

2. For the purposes of this section:

a. "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the annuity savings fund

together with regular interest thereon as provided in this subsection. Accumulated contributions do not include any amount deducted from the compensation of a member and credited to the pension accumulation fund.

b. "Annuity" means annual payments for life derived from the accumulated contributions of a member. All annuities shall be payable in monthly installments.

c. "Annuity reserve" shall mean the present value of all payments to be made on account of an annuity, or benefit in lieu of an annuity, granted under the provisions of this chapter, upon the basis of such mortality tables as shall be adopted by the board of trustees, and regular interest.

d. "Annuity savings fund" means the account maintained by the board of trustees in which the accumulated contributions of the members were deposited prior to July 1, 1979, to provide for their annuities.

e. "Annuity reserve fund" means the account maintained by the board of trustees from which shall be paid all annuities and all benefits in lieu of annuities payable as provided in this chapter as this chapter was effective on June 30, 1978.

f. "Regular interest" means interest at the rate of four percent per annum, compounded annually and credited to the member's account as of the date of the member's retirement or termination from employment.

3. Beginning July 1, 1979, the board of trustees shall maintain and invest funds in the annuity reserve fund and the annuity savings fund which had been contributed by members prior to July 1, 1979. Members receiving an annuity as a portion of their retirement or disability benefits on June 30, 1979, shall continue to receive such annuity from the annuity reserve fund maintained by the board of trustees. Members receiving an annuity, if reemployed under service covered by this chapter, shall cease to receive retirement benefits.

4. The accumulated contributions of a member withdrawn by the member or paid to the member's estate or designated beneficiary in the event of the member's death shall be paid from the annuity savings fund account. Upon the retirement of a member, the member's accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

5. A member of the retirement system prior to July 1, 1979 with fifteen or more years of service whose employment

was terminated prior to retirement, other than by death or disability, shall be entitled to receipt of his or her accumulated contributions upon retirement together with other retirement benefits provided in the law on the date of the member's retirement. However, the member shall not be eligible for a service retirement allowance under section ninety-seven A point six (97A.6) of the Code if he or she has chosen to withdraw his or her accumulated contributions from the annuity savings fund prior to the member's retirement.

6. Any member in service prior to July 1, 1979 may at the time of his or her retirement withdraw his or her accumulated contributions made before July 1, 1979 or receive an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

7. Notwithstanding the provisions of subsections one (1), three (3), four (4), five (5), and six (6) of this section, an active or vested member may request in writing and receive from the board of trustees, his or her accumulated contributions from the annuity savings' fund at the discretion of the board of trustees, except that the board shall not liquidate securities at a loss for the sole purpose of returning the accumulated contributions to the members. All requested accumulated contributions shall be returned prior to July 1, 1984.

8. The actuary shall annually determine the amount required in the annuity reserve fund. If the amount required is less than the amount in the annuity reserve fund, the board of trustees shall transfer the excess funds from the annuity reserve fund to the pension accumulation fund. If the amount required is more than the amount in the annuity reserve fund, the board of trustees shall transfer the amount prescribed by the actuary to the annuity reserve fund from the pension accumulation fund.

Sec. 20. Section ninety-seven B point eleven (97B.11), Code 1977, is amended to read as follows:

97B.11 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE. Each employer shall deduct from the wages of each member of the system a contribution in the amount of three and six-tenths percent of the covered wages paid by the employer through June 30, 1979, and commencing July 1, 1979 in the amount of three and seven-tenths percent of the covered wages paid by the employer, until the first of the month ~~after the member's~~ seventieth birthday in which the member attains the age of

seventy years or the member's termination or retirement from employment, whichever is earlier. The contributions of the employer shall be in the amount of three and one-half percent of the covered wages of the member for service through December 31, 1975, ~~and~~ in the amount of five and twenty-five hundredths percent of the covered wages of the member for service commencing July 1, 1977 through June 30, 1979, and in the amount of five and seventy-five hundredths percent of the covered wages of the member for service commencing July 1, 1979.

Sec. 21. Section ninety-seven B point twenty-six (97B.26), Code 1977, is amended to read as follows:

97B.26 HEARING OFFICER. Unless such appeal is withdrawn, a hearing officer to be designated by the department for this purpose, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. ~~At-said-hearing-all-of-the evidence-taken-and-the-proceedings-had-shall-be-taken-and fully-reported-by-a-certified-shorthand-reporter---Said reporter-shall-promptly-transcribe-said-evidence-and proceedings-and-certify-to-same.~~ The hearing shall be recorded by mechanical means and a transcript of the hearing shall be made. The said transcript shall then be made available for use by the appeal board and by the courts at subsequent judicial review proceedings under the Iowa administrative procedure Act, if any. The parties shall be duly notified of the hearing officer's decision, together with ~~his~~ the hearing officer's reasons therefor, which shall be deemed to be the final decision of the department unless, within thirty days after the date of notification or mailing of such decision, further appeal is initiated pursuant to section 97B.27.

Sec. 22. Section ninety-seven B point forty-one (97B.41), subsection one (1), paragraph a, unnumbered paragraph one (1), Code 1977, is amended to read as follows:

"Wages" means all remuneration for employment, including the cash value of remuneration paid in any medium other than cash, but not including the cash value of remuneration paid in any medium other than cash necessitated by the convenience of the employer, such amount as agreed upon by the employer and employee and reported to the department by the employer shall be conclusive of the value of remuneration in a medium other than cash; except that remuneration which does not equal or exceed the sum of three hundred dollars in any calendar

~~quarter shall be excluded, provided, however, that the membership of such employee shall not be considered terminated as long as the employer-employee relationship exists.~~ Wages for an elected official means the salary received by an elected official, exclusive of expense and travel allowances.

Sec. 23. Section ninety-seven B point forty-one (97B.41), subsection one (1), paragraph b, subparagraph five (5), Code 1977, is amended to read as follows:

(5) Effective July 1, ~~1973~~ 1978, covered wages shall not include wages to a member on or after the first of the month coinciding with or next following his seventieth birthday in which the member attains the age of seventy years, or after the effective date of ~~his~~ the member's retirement unless ~~he~~ the member is re-employed, as provided under section 97B.48, subsection 3.

Sec. 24. Section ninety-seven B point forty-one (97B.41), subsection two (2), Code 1977, is amended to read as follows:

2. "Employment for any calendar quarter" means any service performed under an employer-employee relationship under the provisions of this chapter if the remuneration equals or exceeds three hundred dollars in the calendar quarter. For the purposes of this chapter, elected officials, ~~excluding members of the general assembly,~~ are deemed to be in employment.

Sec. 25. Section ninety-seven B point forty-one (97B.41), subsection three (3), paragraph b, Code 1977, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. Persons employed under the federal Comprehensive Employment Training Act as amended to January 1, 1978 unless such employees shall make an application to the department to be covered under the provisions of this chapter.

NEW SUBPARAGRAPH. Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants, and specialists in their field of specialized knowledge or skill.

NEW SUBPARAGRAPH. Members of the ministry, rabbinate, or other religious order who have taken the vow of poverty.

NEW SUBPARAGRAPH. Persons employed as city managers under a form of city government listed in chapter three hundred seventy-two (372) of the Code unless such employees shall make an application to the department to be covered under the provisions of this chapter.

Sec. 26. Section ninety-seven B point forty-one (97B.41),

subsections nine (9) and eighteen (18), Code 1977, are amended to read as follows:

9. "Active member" ~~with-respect-to-service-after-July 4-1953-at-the-end-of-a-year~~ during a calendar year means a member who made contributions to the system at any time during the calendar year and who ~~as-of-December-31-of-the current-year;~~

a. had not received or applied for a refund of his or her accumulated contributions for withdrawal or death,

~~b. had not terminated employment and applied for a deferred vested retirement allowance;~~ and

~~e b.~~ had not ~~retired and~~ commenced receiving a retirement allowance.

18. "Membership service" means service rendered by a member after July 4, 1953, and prior to the first of the month coinciding with or next following his seventieth birthday in which the member attains the age of seventy years. Years of membership service shall be counted to the complete quarter calendar year.

Sec. 27. Section ninety-seven B point forty-one (97B.41), subsection twenty (20), Code 1977, is amended to read as follows:

20. "~~Final five-year~~ Five-year average covered wage" means a member's covered wages averaged for the highest five consecutive years of the member's ~~last ten consecutive years which will produce the highest average service.~~ service. ~~If the member has not completed ten consecutive years then the actual years as a member shall be considered, and if~~ the member has less than five consecutive years then the average over the actual number of years as a member shall be used. For the purposes of this chapter the word "consecutive" means in sequence with respect to the years of service rendered as a member and not necessarily in sequence with respect to actual periods of time measured by the calendar.

Sec. 28. Section ninety-seven B point forty-three (97B.43), unnumbered paragraph three (3), Code 1977, is amended to read as follows:

Each individual who as of July 1, ~~1973~~ 1978, was an active, vested, or retired member and who (1) made application for and received a refund of contributions made under the abolished system or (2) has on deposit with the retirement fund his or her contributions made under the abolished system shall be entitled to credit for years of prior service in the determination of retirement allowance payments by filing a

written election with the department ~~between July 1, 1973~~
~~and July 1, 1974~~ on or after July 1, 1978, and by repositing
any withdrawn contributions under the abolished system together
with interest as stated in this paragraph. Any individual
who as of July 1, ~~1973~~ 1978, is a retired member and who made
application for and received a refund of contributions made
under the abolished system, may, by filing a written election
with the department ~~between July 1, 1973 and July 1, 1974~~
on or after July 1, 1978, have the department retain fifty
percent of the monthly increase in retiree benefits that will
accrue to the individual because of prior service. If the
monthly increase in retirement benefits is less than ten
dollars, the department shall retain five dollars of the
scheduled increase, and if the monthly increase is less than
five dollars, the provisions of this paragraph shall not
apply. The department shall continue to retain such funds
until the withdrawn contributions, together with interest
accrued to ~~July 1, 1973~~ the month in which the written election
is filed, have been repaid. Due notice of this provision
shall be sent to all retired members as of July 1, ~~1973~~ 1978.
However, this paragraph shall not apply to any person who
received a refund of any membership service contributions;
provided, however, that a refund of contributions remitted
for the calendar quarter ending September 30, 1953 which was
based entirely upon employment which terminated prior to July
4, 1953 shall not be considered as a refund of membership
service contributions. The interest to be paid into the fund
shall be compounded at the rates credited to member accounts
from the date of payment of the refund of contributions under
the abolished system to the date the member redeposits the
refunded amount. The provisions of the first paragraph of
this section relating to the consideration given to credited
amounts shall apply to the redeposited amounts or to amounts
left on deposit. Effective ~~January~~ July 1, 1976 1978, the
provisions of this paragraph shall apply to each individual
who as of ~~January~~ July 1, 1976 1978, was an active, vested,
or retired member, but who was not in service on July 4, 1953.
The period for filing the written election with the department
and repositing any withdrawn contributions together with
interest accrued ~~to~~ shall commence January July 1, 1976 ~~shall~~
~~be between January 1, 1976 and January 1, 1977~~ 1978. A member
who is a retired member as of ~~January~~ July 1, 1976 1978 may
file written election with the department between on or after
January July 1, 1976 ~~and January 1, 1977~~ 1978 to have the

department retain fifty percent of the monthly increase as provided in this paragraph.

Sec. 29. Section ninety-seven B point forty-five (97B.45), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

A member's normal retirement date shall be the first of the month ~~coinciding with or next following his sixty-fifth birthday~~ in which a member attains the age of sixty-five years. A member may retire after ~~his~~ the member's sixty-fifth birthday except as otherwise provided in section 97B.46.

A member retiring on or after ~~his~~ the normal retirement date, as provided in section 97B.46, shall submit a written notice to the department setting forth the date the retirement is to become effective, provided that such date shall be after ~~his~~ the member's last day of service and not before the first day of the sixth calendar month preceding the month in which the notice is filed, except that credit for service shall cease when contributions cease as provided in section 97B.11.

Sec. 30. Section ninety-seven B point forty-six (97B.46), Code 1977, is amended to read as follows:

97B.46 SERVICE AFTER AGE SIXTY-FIVE. A member may, on the request of the employer, remain in the active employ of the employer beyond the date ~~he~~ the member attains the age of sixty-five for such period or periods as the employer from time to time shall approve, provided, however, that credit for such service shall cease when contributions cease as provided in section 97B.11. The member shall retire ~~from the employment of the employer~~ at the end of the last approved period, on the first day of the month ~~next following or coinciding with such date~~ in which the member retires, except that such date shall be after the last day of service. A member remaining in service ~~past his seventieth birthday~~ after attaining the age of seventy years shall be entitled to receive a retirement allowance under section 97B.49 as applicable commencing with payment for the calendar month within which the written notice is submitted to the department, except that if ~~he~~ the member fails to submit the notice on a timely basis, retroactive payments shall be made for no more than six months immediately preceding the month in which the written notice is submitted.

Sec. 31. Section ninety-seven B point forty-seven (97B.47), Code 1977, is amended to read as follows:

97B.47 EARLY RETIREMENT DATE. A member's early retirement date shall be the first of ~~any~~ the month ~~coinciding with or~~

~~following his fifty-fifth birthday and~~ in which a member attains the age of fifty-five years or the first of any month after attaining the age of fifty-five years prior to ~~his the member's~~ normal retirement date, provided such date shall be after the last day of service. A member may retire on ~~his the member's~~ early retirement date by submitting written notice to the department setting forth the early retirement date which shall not be before the first day of the sixth calendar month preceding the month in which such notice is filed.

Sec. 32. Section ninety-seven B point forty-eight (97B.48), subsection three (3), Code 1977, is amended to read as follows:

3. If at any time after the first day of the month ~~coinciding with or next following his fifty-fifth birthday~~ in which the member attains the age of fifty-five years and until ~~his the member's~~ sixty-fifth birthday, a member who is retired under this chapter is in regular full-time employment, ~~his the member's~~ retirement allowance shall be suspended for as long as ~~he the member~~ remains in employment. However, employment shall not be regarded as full-time employment until ~~he the member~~ receives remuneration in an amount in excess of two thousand one hundred dollars for any calendar year. Effective the first of the month ~~coinciding with or next following his sixty-fifth birthday~~ in which a member attains the age of sixty-five years, a retired member shall be entitled to receive a retirement allowance after return to covered employment regardless of the amount of remuneration received. As of the first of the month ~~coinciding with or next following the member's seventieth birthday~~ in which the member attains the age of seventy years, ~~he the member~~ shall be entitled to receive a retirement allowance determined under section 97B.49, regardless of the amount of remuneration received. Upon any retirement after reemployment, a retired member shall be entitled to have his or her retirement allowance redetermined under this section or sections 97B.49 or 97B.50, whichever is applicable, based upon the employee's and ~~his~~ employer's additional contributions, and any membership service of the employee after ~~his~~ reemployment.

Sec. 33. Section ninety-seven B point forty-nine (97B.49), subsection five (5), Code 1977, is amended to read as follows:

5. For each active member retiring ~~on or after~~ between January 1, 1976 and June 30, 1978, with four or more complete years of service a monthly benefit shall be computed which

is equal to one-twelfth of an amount equal to forty percent of the ~~final~~ five-year average covered wage multiplied by a fraction of years of service. For each active member retiring on or after July 1, 1978 the monthly benefit computed under this subsection shall be equal to one-twelfth of an amount equal to forty-four percent of the five-year average covered wage multiplied by a fraction of years of service. For the purposes of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service and the number of years of prior service divided by thirty years.

If benefits under this subsection commence on an early retirement date, the amount of benefit shall be reduced in accordance with section 97B.50.

Sec. 34. Section ninety-seven B point forty-nine (97B.49), subsection seven (7), Code 1977, is amended to read as follows:

7. Notwithstanding the provisions of this chapter, a member who is or has been employed as a conservation peace officer under the provisions of section 107.13 and who retires ~~on or after~~ between January 1, 1976 and June 30, 1978, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a conservation peace officer, may elect to receive, in lieu of the receipt of any benefits under subsection five (5) of this section, a monthly retirement allowance equal to one-twelfth of forty percent of the member's ~~final~~ five-year average covered wage as a conservation peace officer, with benefits payable during the member's lifetime. For each such member retiring on or after July 1, 1978, the monthly benefit computed under this subsection shall be equal to one-twelfth of an amount equal to forty-four percent of the five-year average covered wage as a conservation peace officer multiplied by a fraction of years of service. There is appropriated from the general fund of the state to the department of job service from funds not otherwise appropriated an amount sufficient to pay ~~the additional costs above the employee and employer contributions~~ eight and forty-three hundredths percent of the covered wages of each conservation peace officer, in addition to the contribution paid by the employer under section ninety-seven B point eleven (97B.11) of the Code, to pay for finance increased benefits to conservation peace officers under this subsection. ~~The provisions of this subsection shall be effective July 1, 1976.~~

Sec. 35. Section ninety-seven B point forty-nine (97B.49),

Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. a. Notwithstanding the provisions of this chapter, effective July 1, 1979 to be included in county budgets for the fiscal year beginning July 1, 1979, a member who is or has been employed as a county sheriff, as defined in section thirty-nine point seventeen (39.17) of the Code, or as a deputy sheriff appointed pursuant to chapter three hundred forty-one (341) of the Code, and who retires on or after January 1, 1978, and at the time of retirement is at least sixty years of age and has completed at least twenty-five years of membership service as a county sheriff or deputy sheriff, may elect to receive, in lieu of the receipt of any benefits under subsection five (5) of this section, a monthly retirement allowance equal to one-twelfth of forty-four percent of the member's five-year average covered wage as a sheriff or deputy sheriff, with benefits payable during the member's lifetime.

b. Each county and employee eligible for benefits under this section shall annually contribute an amount determined by the Iowa department of job service, as a percentage of covered wages, to be necessary to pay for the additional benefits provided by this section. The annual contribution in excess of the employer and employee contributions required by this chapter shall be paid by the employer and the employee in the same proportion that employer and employee contributions are made under section ninety-seven B point eleven (97B.11) of the Code. The additional percentage of covered wage calculated by the department shall be an actuarially determined amount which, if contributed throughout the entire period of active service, would be sufficient to provide the pension benefit provided in this section.

NEW SUBSECTION. Effective July 1, 1978, for each member who retired from the system prior to January 1, 1976, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1978 is increased as follows:

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

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

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

Sec. 36. Section ninety-seven B point fifty (97B.50),

Code 1977, is amended to read as follows:

97B.50 EARLY RETIREMENT.

1. A member shall upon retirement on his early retirement date be entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in subsections 1, 4 and 5 of section 97B.49 reduced by five-tenths of one percent per month for each month that the early retirement date precedes the normal retirement date.

2. A member who has completed thirty or more years of service who retires from the system and commences receiving disability benefits pursuant to the United States Social Security Act (42 U.S.C.), as amended to July 1, 1978, who is eligible for early retirement, but has not reached the normal retirement date, shall receive full benefits under section ninety-seven B point forty-nine (97B.49) of the Code and shall not have benefits reduced upon retirement as required under subsection one (1) of this section.

3. A member who has not completed thirty years of service who retires from the system and commences receiving disability benefits pursuant to the United States Social Security Act (42 U.S.C.), as amended to July 1, 1978, who is eligible for early retirement, but has not reached the normal retirement date, shall upon retirement have benefits received under section ninety-seven B point forty-nine (97B.49) of the Code reduced by twenty-five hundredths of one percent per month for each month that the early retirement date precedes the normal retirement date.

Sec. 37. Section ninety-seven B point fifty-one (97B.51), subsection three (3), Code 1977, is amended to read as follows:

3. A member who had elected to take the option stated in subsection 1 of this section may, at any time prior to his or her retirement, revoke such an election by written notice to the commission department.

Sec. 38. Section ninety-seven B point fifty-two (97B.52), subsection one (1), paragraph c, Code 1977, is amended by striking unnumbered paragraphs two (2) and three (3) and inserting in lieu thereof the following:

If the beneficiary is the estate of the member or is not an individual, or if two or more persons are to share as beneficiaries, payment shall be made under the provisions of paragraph a of this subsection. If the beneficiary is an individual, the beneficiary may elect in writing to the department payment in one of the forms specified in this

subsection, except that if the beneficiary does not file notice of election with the department within one hundred eighty days after the member's death, payment shall be made under the provisions of paragraph a of this subsection.

If the payment form prescribed in paragraphs b or c of this subsection is elected by the beneficiary, and the monthly life annuity elected would equal less than ten dollars, the department may require the application of the payment form prescribed in paragraph a of this subsection in lieu of the elected payment form.

The provisions of this subsection shall apply if the claim under this subsection is filed with the department on or after July 1, 1978, even though the member may have specified the payment form on designation of beneficiary form filed with the department.

Sec. 39. Section ninety-seven B point fifty-three (97B.53), subsection two (2), Code 1977, is amended to read as follows:

2. If the employment with the employer of a member is terminated prior to ~~his~~ the member's retirement, other than by death, but after ~~he~~ the member has either

- a. Completed at least four years of service, or
- b. Has attained the age of fifty-five, ~~he~~ the member shall receive a monthly retirement allowance commencing on the first day of the month ~~next-following-or-coinciding-with-the-date~~ he in which the member attains the age of sixty-five years, if ~~he~~ the member is then alive, or, if the member so elects in accordance with section 97B.47, commencing on the first day of ~~any~~ the month ~~coinciding-or-next-following-the-date~~ he in which the member attains the age of fifty-five and ~~any~~ month thereafter prior to the date ~~he~~ the member attains the age of sixty-five years, and continuing on the first day of each month thereafter during ~~his~~ the member's lifetime, provided the member does not receive prior to the date ~~his~~ the member's retirement allowance is to commence a refund of accumulated contributions under any of the provisions of this chapter. The amount of each such monthly retirement allowance shall be determined as provided in either section 97B.49 or in section 97B.50, whichever is applicable.

Sec. 40. Chapter ninety-seven B (97B), Code 1977, is amended by adding the following new sections:

NEW SECTION. Persons who are members of the Sixty-eighth General Assembly who submit proof to the department of membership in the general assembly during any period beginning July 4, 1953 and ending January 8, 1979 may make contributions

to the system for service equal to the accumulated contributions as defined in section ninety-seven B point forty-one (97B.41), subsection thirteen (13), of the Code which would have been made if the member of the general assembly had been a member of the system during the member's service in the general assembly. The proof of membership in the general assembly and payment of accumulated contributions shall be transmitted to the department not later than December 31, 1979. Persons eligible to receive retirement allowances under this section shall be eligible to commence receiving retirement allowances on January 8, 1979.

There is appropriated from the general fund of the state to the Iowa department of job service an amount sufficient to pay the contributions of the employer based on service of the members in an amount equal to the contributions which would have been made if the members of the general assembly who made employee contributions had been members of the system during their service in the general assembly plus two percent interest plus interest dividends for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years at two percent interest plus the interest dividend rate calculated for the previous year, compounded annually, from the end of the calendar year in which contribution was made to the first day of the month of such date.

NEW SECTION. A vested or retired member who was not a vested member of a public retirement system in another state may, upon submitting verification of membership and service in the public retirement system in another state to the department not later than July 1, 1979 for members vested on July 1, 1978 or within one year after the member becomes vested, make employer and employee contributions to the system for the period of service in the public retirement system in another state and receive credit for membership service in this system. The contributions paid by the vested or retired member for service in the public retirement system in another state shall be equal to the accumulated contributions as defined in section ninety-seven B point forty-one (97B.41), subsection thirteen (13), of the Code, by the member for that period of membership service and the contributions of the employer which would have been contributed for that period of membership service plus interest on the contributions for the period from the date of service of the member in the

public retirement system in another state to the date of payment of the contributions by the member equal to two percent plus the interest dividend rate applicable for each year.

Sec. 41. Section three hundred eighty-four point six (384.6), subsection one (1), Code 1977, is amended to read as follows:

1. Accounting for pension and related employee benefit funds. A city may make contributions to a retirement system other than the Iowa public employees' retirement system for its city manager in an annual amount not to exceed the amount that would have been contributed by the employer under the provisions of section ninety-seven B point eleven (97B.11) of the Code. A city may certify taxes to be levied for the trust and agency fund in the amount necessary to meet such obligations.

Sec. 42. Section four hundred eleven point one (411.1), subsections nine (9), ten (10), fourteen (14), nineteen (19), twenty-one (21), and twenty-two (22), Code 1977, are amended to read as follows:

9. "Beneficiary" shall mean any person receiving ~~a pension, an annuity,~~ a retirement allowance or other benefit as provided by this chapter.

10. "Surviving spouse" shall mean ~~only-such~~ the surviving spouse of a marriage consummated solemnized prior to retirement of a deceased member from active service. Surviving spouse shall include a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section five hundred ninety-eight point seventeen (598.17) of the Code grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage solemnized prior to retirement of a deceased member, surviving spouse includes a surviving spouse of a marriage of two years or more duration solemnized subsequent to retirement of the member.

14. "Earnable compensation" or "compensation earnable" shall mean the regular compensation which a member would earn during one year on the basis of the stated compensation for ~~his~~ the member's rank or position including compensation for longevity and excluding any amount received for overtime compensation or other special additional compensation, meal and travel expenses, and uniform allowances and excluding any amount received upon termination or retirement in payment for accumulated sick leave or vacation.

19. "Retirement allowance" shall mean the ~~sum-of-the annuity-and-the~~ pension, or any benefits in lieu thereof, granted to a member upon retirement.

21. "Pension reserve" shall mean the present value of all payments to be made on account of any pension, or benefit in lieu of a pension, granted under the provisions of this chapter, upon the basis of such mortality tables as shall be adopted by the boards of trustees, and ~~regular~~ interest computed at rates adopted by the boards upon the recommendation of the actuary.

22. "Actuarial equivalent" shall mean a benefit of equal value, when computed upon the basis of mortality tables adopted by the boards of trustees, and ~~regular~~ interest computed at rates adopted by the boards upon the recommendation of the actuary.

Sec. 43. Section four hundred eleven point one (411.1), Code 1977, is amended by striking subsections twelve (12), thirteen (13), seventeen (17), and twenty (20).

Sec. 44. Section four hundred eleven point three (411.3), Code 1977, is amended to read as follows:

1. All persons who become ~~police~~ police officers or ~~firemen~~ fire fighters after the date ~~such the~~ retirement systems are established by this chapter, shall become members thereof as a condition of their employment. Such members shall not be required to make contributions under any other pension or retirement system of city, county, or state of Iowa, anything to the contrary notwithstanding.

2. Should any member in any period of five consecutive years after last becoming a member, be absent from service for more than four years, ~~or-should-he-withdraw-his-accumulated contributions,~~ or should he or she become a beneficiary or die, he or she shall thereupon cease to be a member of the system.

Sec. 45. Section four hundred eleven point six (411.6), subsection one (1), paragraph c, Code 1977, is amended to read as follows:

c. Any member in service who has been a member of the retirement system fifteen or more years and whose employment is terminated prior to ~~his~~ the member's retirement, other than by death or disability, shall upon attaining retirement age, receive a service retirement allowance of fifteen twenty-seconds of the retirement allowance ~~he~~ the member would receive at retirement if his or her employment had not been terminated, and an additional one twenty-second of such retirement

allowance for each additional year of service not exceeding twenty-two years of service. The amount of the retirement allowance shall be based on the average final compensation at the time of termination of employment. ~~The allowance shall not be available to a member who has chosen to withdraw his accumulated contributions as provided in subsection 40 of this section.~~

Sec. 46. Section four hundred eleven point six (411.6), subsections two (2) and four (4), Code 1977, are amended to read as follows:

2. ALLOWANCE ON SERVICE RETIREMENT. Upon retirement from service, a member shall receive a service retirement allowance which shall consist of:

~~a. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and~~

~~b. A pension given by the city which shall equal one-half of the member's average final compensation.~~

4. ALLOWANCE ON ORDINARY DISABILITY RETIREMENT. Upon retirement for ordinary disability a member shall receive a service retirement allowance if ~~he~~ the member has attained the age of fifty-five, otherwise ~~he~~ the member shall receive an ordinary disability retirement allowance which shall consist of:

~~a. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement, and~~

~~b. A pension which together with the member's annuity shall make a total retirement allowance equal to ninety forty percent of 1/70 of the member's average final compensation multiplied by the number of years of membership service, if such retirement allowance exceeds one-half of the member's average final compensation, otherwise a pension which together with the member's annuity shall provide a total retirement allowance equal to one-half of the member's average final compensation except if the member has not had five or more years of membership service the member shall receive a pension which together with the member's annuity shall provide a total retirement allowance equal to one-fourth of the member's average final compensation.~~

Sec. 47. Section four hundred eleven point six (411.6), subsection six (6), Code 1977, is amended to read as follows:

6. RETIREMENT AFTER ACCIDENT. Upon retirement for accidental disability a member shall receive a service

retirement allowance if the member has attained the age of fifty-five, otherwise the member shall receive an accidental disability retirement allowance which shall consist of:

~~a. -- An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement, and~~

~~b. -- A a pension, in addition to the annuity, of equal to 66 2/3 percent of his the member's average final compensation.~~

Sec. 48. Section four hundred eleven point six (411.6), subsection seven (7), paragraph a, Code 1977, is amended to read as follows:

a. Should any beneficiary for either ordinary or accidental disability, except a beneficiary who is fifty-five years of age or over and would have completed twenty-two years of service if he or she had remained in active service, be engaged in a gainful occupation paying more than the difference between his the member's retirement allowance and his average final compensation the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement, then the amount of his pension the member's retirement allowance shall be reduced to an amount which together with ~~his annuity and~~ the amount earned by ~~him~~ the member shall equal the amount of his average final compensation the current earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. Should his the member's earning capacity be later changed, the amount of his pension the member's retirement allowance may be further modified, provided, that the new pension retirement allowance shall not exceed the amount of the pension originally granted retirement allowance adjusted by annual readjustments of pensions pursuant to subsection fourteen (14) of this section nor an amount which, when added to the amount earned by the beneficiary ~~together with his annuity,~~ equals the amount of his average final compensation the earnable compensation of an active member at the same position on the salary scale within the member's rank as the member held at retirement. A beneficiary restored to active service at a salary less than the average final compensation upon the basis of which he the member was retired at age fifty-five or greater, shall not again become a member of the retirement system and shall have his or her retirement allowance suspended while in active service. If the rank or position held by the retired member is subsequently abolished, adjustments to the allowable limit

on the amount of income which can be earned in a gainful occupation shall be computed in the same manner as provided in subsection fourteen (14), paragraph d, of this section for readjustment of pensions when a rank or position has been abolished.

A beneficiary retired under the provisions of this paragraph in order to be eligible for continued receipt of retirement benefits shall no later than May fifteenth of each year submit to the board of trustees a copy of his or her state income tax return for the preceding year.

Retroactive to July 1, 1976, the limitations on pay of a member engaged in a gainful occupation who is retired under accidental disability prescribed in this paragraph shall not apply to a member who retired before July 1, 1976.

Sec. 49. Section four hundred eleven point six (411.6), subsections eight (8) and nine (9), Code 1977, are amended to read as follows:

8. ORDINARY DEATH BENEFIT. Upon the receipt of proper proofs of the death of a member in service, or a member not in service who has completed fifteen or more years of service as provided in subsection 1, paragraph "c", of this section, there shall be paid to such person having an insurable interest in the member's life as the member shall have nominated by written designation duly executed and filed with the respective board of trustees:

a. ~~The member's accumulated contributions and, if~~ If the member has had one or more years of membership service and no pension is payable under the provisions of subsection 9 of this section, ~~in addition thereto--~~

~~b. An~~ an amount equal to fifty percent of the compensation earnable by the member during the year immediately preceding the member's death if the member is in service or an amount equal to fifty percent of the compensation earned by the member during the member's last year of service if the member is not in service; or

b. If there be no such nomination of beneficiary, the benefits provided in ~~paragraphs~~ paragraph "a" ~~and "b"~~ shall be paid to the member's estate; or in lieu thereof, at the option of the following beneficiaries, respectively, even though nominated as such for a member in service, there shall be paid a pension which, ~~together with the actuarial equivalent of the member's accumulated contributions,~~ shall be equal to one-fourth of the average final compensation of such member, but in no instance less than seventy-five dollars. In addition

to the benefits herein enumerated, there shall also be paid for each child of a member under the age of eighteen years the sum of twenty dollars per month a monthly pension equal to six percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department or for a member not in service the pension shall be reduced as provided in subsection 1, paragraph "c," of this section and shall be paid commencing when the member would have attained the age of fifty-five except if there is a child of the member under the age of eighteen, or under the age of twenty-two who is a full-time student, or who is disabled, under the definitions used in section 402 of the Social Security Act as amended to July 1, 1976 1978 U.S.C. 402 the pension shall be paid commencing with the member's death until the children reach the age of eighteen, or twenty-two if applicable. The pension shall resume commencing when the member would have attained the age of fifty-five;

c. To the spouse to continue so long as said party remains unmarried; or

d. If there be no spouse, or if the spouse dies or remarries before any child of such deceased member shall have attained the age of eighteen years, then to the guardian of his or her child or children under said age, divided in such manner as the board of trustees in its discretion shall determine, to continue as a joint and survivor pension until every such child dies or attains the age of eighteen; or

e. If there be no surviving spouse or child under age eighteen, then to his or her dependent father or mother or both, as the board of trustees in its discretion shall determine, to continue until remarriage or death.

9. ACCIDENTAL DEATH BENEFIT. If, upon the receipt of evidence and proof that the death of a member in service or the chief of police or fire departments was the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which he the member is regularly employed, the board of trustees shall decide that death was so caused in the performance of duty there shall be paid, in lieu of the ordinary death benefit provided in subsection 8 of this section, to his the member's estate or to such person having

an insurable interest in ~~his~~ the member's life as ~~he~~ the member shall have nominated by written designation duly executed and filed with the respective board of trustees the benefits set forth in paragraphs "a", and "b" and "c" of this subsection:

~~a. His accumulated contributions, and in addition thereto--~~

~~b.~~ A pension equal to one-half of the average final compensation of such member shall be paid to ~~his~~ the member's spouse, children or dependent parents as provided in paragraphs "c", "d" and "e" of subsection 8 of this section. In addition to the benefits for the spouse herein enumerated, there shall also be paid for each dependent child of a member under the age of eighteen years ~~the sum of twenty dollars per month~~ a monthly pension equal to six percent of the monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or holding the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department.

~~e~~ b. If there be no spouse, children under the age of eighteen years or dependent parent surviving such deceased member, the death shall be treated as an ordinary death case and the benefit payable in accordance with the provisions of subsection 8, paragraph "b a", in lieu of the pension provided in paragraph "b a" of this subsection 9, shall be paid to ~~his~~ the member's estate.

Disease under this subsection shall mean heart disease or any disease of the lungs or respiratory tract and shall be presumed to have been contracted while on active duty as a result of strain or the inhalation of noxious fumes, poison, or gases.

Sec. 50. Section four hundred eleven point six (411.6), Code 1977, is amended by striking subsection ten (10).

Sec. 51. Section four hundred eleven point six (411.6), subsection thirteen (13), Code 1977, is amended to read as follows:

13. PENSION TO SPOUSE AND CHILDREN OF DECEASED PENSIONED MEMBER. In the event of the death of any member receiving a retirement allowance under the provisions of subsections 2, 4, or 6 of this section there shall be paid a pension:

a. To the spouse to continue so long as said partner remains unmarried, equal to one-half the amount received by such deceased beneficiary, but in no instance less than seventy-five dollars per month, and in addition thereto ~~the~~

~~sum-of-twenty-dollars-per-month~~ a monthly pension equal to the monthly pension payable under subsection nine (9) of this section for each child under eighteen years of age; or

b. In the event of the death of the spouse either prior or subsequent to the death of the member, to the guardian of each surviving child under eighteen years of age, ~~in-the sum-of-twenty-dollars-per-month~~ a monthly pension equal to the monthly pension payable under subsection nine (9) of this section for the support of such child.

Sec. 52. Section four hundred eleven point six (411.6), subsection fourteen (14), paragraph a, Code 1977, is amended to read as follows:

a. As of the first of July of each year, the monthly pensions authorized in this section payable to each retired member and to each beneficiary, except children, of a deceased member shall be recomputed. The formula authorized in this section which was used to compute the retired member's or beneficiary's pension at the time of retirement or death shall be used in the recomputation except the pension compensation shall be used in lieu of the average final compensation which the retired or deceased member was receiving at the time of retirement or death. The adjusted monthly pension shall be the amount payable at the member's retirement or death adjusted by one-half of the difference between the recomputed pension and the amount payable at the member's retirement or death. At no time shall the monthly pension or payment to the beneficiary be less than the amount which was paid at the time of the member's retirement or death.

As of the first of July of each year, the monthly pension payable to each surviving child under the provisions of subsections eight (8), nine (9), and thirteen (13) of this section shall be adjusted to equal six percent of the monthly earnable compensation payable on that July first to an active member holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or holding the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department.

Sec. 53. Section four hundred eleven point six (411.6), subsection fourteen (14), Code 1977, is amended by striking paragraph b.

Sec. 54. Section four hundred eleven point six (411.6), Code 1977, is amended by striking subsection eleven (11).

Sec. 55. Section four hundred eleven point seven (411.7), Code 1977, is amended by striking subsection three (3).

Sec. 56. Section four hundred eleven point eight (411.8), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

All the assets of each retirement system created and established by this chapter shall be credited according to the purpose for which they are held to one of ~~five three~~ funds, namely, ~~the annuity-savings-fund, the annuity-reserve fund,~~ the pension accumulation fund, the pension reserve fund, and the expense fund.

Sec. 57. Section four hundred eleven point eight (411.8), Code 1977, is amended by striking subsections one (1) and two (2).

Sec. 58. Section four hundred eleven point eight (411.8), subsection three (3), Code 1977, is amended to read as follows:

3. PENSION ACCUMULATION FUND. The pension accumulation fund shall be the fund in which shall be accumulated all ~~reserves moneys~~ for the payment of all pensions and other benefits payable from contributions made by the said cities ~~and the members~~ and from which shall be paid the lump-sum death benefits for all members payable from the said contributions. Contributions to and payments from the pension accumulation fund shall be as follows:

a. On account of each member there shall be paid annually into the pension accumulation fund by the said cities an amount equal to a certain percentage of the earnable compensation of the member to be known as the "normal contribution". The rate percent of such contribution shall be fixed on the basis of the liabilities of the retirement system as shown by annual actuarial valuations. ~~Until the first-valuation-the-normal-contribution-shall-be-7-9-percent.~~

b. On the basis of the rate of interest and of such mortality, interest and other tables as shall be adopted by the boards of trustees, the actuary engaged by the said boards to make each valuation required by this chapter, shall immediately after making such valuation, determine ~~the-uniform and-constant-percentage-of-the-earnable-compensation-of-the average-new-entrant, which, if-contributed-throughout-his entire-period-of-active-service, would-be-sufficient-to-provide for-the-payment-of-any-death-benefit-or-pension-payable-on this-account.--The-rate-percent-so-determined-shall-be-known~~ as the "normal contribution rate". The normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit

of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted by the boards of trustees, all reduced by the employee contribution made pursuant to paragraph f of this subsection. The normal rate of contribution shall be determined by the actuary after each valuation.

c. The total amount payable in each year to the pension accumulation fund shall be not less than the rate percent known as the normal contribution rate of the total compensation earnable by all members during the year, provided, however, that the aggregate payment by the said cities shall be sufficient when combined with the amount in the fund to provide the pensions and other benefits payable out of the fund during the then current year.

d. All lump-sum death benefits on account of death in active service payable from contributions of the said cities shall be paid from the pension accumulation fund.

e. Upon the retirement or death of a member an amount equal to the pension reserve on any pension payable to him or her or on account of his or her death shall be transferred from the pension accumulation fund to the pension reserve fund.

f. An amount equal to one two and twenty-one hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund. ~~The provisions of this section, subsection 47, paragraphs "b" and "e", relating to the contributions of members shall be applicable to this paragraph.~~

g. Each board of trustees shall certify to the superintendent of public safety as defined in this chapter and the superintendent of public safety as defined in this chapter shall cause to be deducted from the earnable compensation of each member the contribution required under paragraph f of this subsection and shall forward the contributions to the board of trustees for recording and for deposit in the pension accumulation fund.

The deductions provided for under this subsection shall be made notwithstanding that the minimum compensation provided by law for any member is reduced. Every member is deemed to consent to the deductions made under this section.

Sec. 59. Section four hundred eleven point eleven (411.11), Code 1977, is amended by striking subsection two (2).

Sec. 60. Section four hundred eleven point twelve (411.12), Code 1977, is amended to read as follows:

411.12 GUARANTY. ~~Regular-interest-charges-payable, the~~ The creation and maintenance of ~~reserves moneys~~ reserves in the pension accumulation fund and the maintenance of ~~annuity-reserves~~ annuity reserves and pension reserves as provided for the payment of all pensions, ~~annuities, retirement-allowances, refunds,~~ annuities, retirement allowances, refunds, and other benefits granted under the provisions of this chapter and all expenses in connection with the administration and operation of the retirement systems are hereby made direct liability obligations of the said cities. ~~All-income, interest, and dividends derived from deposits and investments authorized by this chapter shall be used for the payment of the said obligations of the said cities. Any amounts derived therefrom, which, when combined with regular appropriations made under the provisions of this chapter, exceed the amount required to provide for the discharge of such obligations, shall be used to reduce the regular appropriations otherwise required.~~

Sec. 61. Section four hundred eleven point twenty (411.20), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

411.20 APPROPRIATION TO MUNICIPAL ASSISTANCE FUND. There is appropriated from the general fund of the state to the municipal assistance fund established in chapter four hundred five (405) of the Code for each fiscal year an amount necessary to be distributed to cities which have established fire and police retirement systems under the provisions of this chapter. Funds shall be used to finance the costs of benefits provided in this chapter by amendments of the Acts of the Sixty-sixth General Assembly, chapter one thousand eighty-nine (1089).

Commencing with the fiscal year beginning July 1, 1979, the amounts distributed to each eligible city to pay the state's portion of the costs of benefit improvements provided by the Sixty-sixth General Assembly, chapter one thousand eighty-nine (1089) shall be computed by the actuary employed by the respective board of trustees on the basis of the results of actuarial studies performed by such actuary for the fiscal years beginning July 1, 1978 and July 1, 1979 as provided in this section.

Prior to December 31, 1979 the actuary employed by the respective board of trustees shall perform the actuarial valuations of the system which are needed to determine the state's portion of the cost of the benefit improvements

provided by the Acts of the Sixty-sixth General Assembly, chapter one thousand eighty-nine (1089), for the fiscal year commencing July 1, 1979, under this section as this section was effective on June 30, 1978. In addition, the actuary shall perform the actuarial valuations of the system which would have been needed to determine the state's portion of the cost of the benefit improvements under this section as this section was effective on June 30, 1978, for the fiscal year commencing July 1, 1978.

On the basis of the results of the actuarial valuations described above, each actuary employed by a board of trustees shall determine a ratio of the payroll which is determined by dividing the total of the state's portion of the cost of said benefit improvements as determined by the actuarial valuations described for the two fiscal years by the total payroll of the members of the system for the two fiscal years. The actuary shall certify the ratio so determined to the state comptroller.

For the fiscal year commencing July 1, 1979 and each fiscal year thereafter, the state comptroller shall pay to each city an amount equal to the ratio of payroll computed for a city times the payroll of the active members employed under that system by that city for the fiscal year.

Sec. 62. Sections ninety-seven A point ten (97A.10) and four hundred eleven point ten (411.10), Code 1977, are repealed.

Sec. 63. Chapter four hundred eleven (411), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapters forty-eight (48) and one hundred eighteen (118), is amended by adding the following new section:

NEW SECTION.

1. Members who became vested and terminated service prior to July 1, 1979, and members receiving an annuity from accumulated contributions made prior to July 1, 1979, shall continue to receive the benefits the member was entitled to under the provisions of chapter four hundred eleven (411), as chapter four hundred eleven (411) was effective on the date of the member's retirement or vested termination.

2. For the purposes of this section:

a. "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the annuity savings fund together with regular interest thereon as provided in this subsection. Accumulated contributions do not include any

amount deducted from the compensation of a member and credited to the pension accumulation fund.

b. "Annuity" means annual payments for life derived from the accumulated contributions of a member. All annuities shall be payable in monthly installments.

c. "Annuity reserve" shall mean the present value of all payments to be made on account of an annuity, or benefit in lieu of an annuity, granted under the provisions of this chapter, upon the basis of such mortality tables as shall be adopted by the respective boards of trustees, and regular interest.

d. "Annuity savings fund" means the account maintained by the respective board of trustees in which the accumulated contributions of the members were deposited prior to July 1, 1979, to provide for their annuities.

e. "Annuity reserve fund" means the account maintained by the respective boards of trustees from which shall be paid all annuities and all benefits in lieu of annuities payable as provided in this chapter as this chapter was effective on June 30, 1979.

f. "Regular interest" means interest at the rate of four percent per annum, compounded annually and credited to the member's account as of the date of the member's retirement or termination from employment.

3. Beginning July 1, 1979, the respective boards of trustees shall maintain and invest funds in the annuity reserve fund and the annuity savings fund contributed by members prior to July 1, 1979. Members receiving an annuity as a portion of their retirement or disability benefits on June 30, 1979, shall continue to receive such annuity from the annuity reserve fund maintained by the respective board of trustees. Members receiving an annuity, if reemployed under service covered by this chapter, shall cease to receive retirement benefits.

4. The accumulated contributions of a member withdrawn by the member or paid to the member's estate or designated beneficiary in the event of the member's death shall be paid from the annuity savings fund account. Upon the retirement of a member, the member's accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

5. A member of the retirement system prior to July 1, 1979 with fifteen or more years of service whose employment was terminated prior to retirement, other than by death or disability, shall be entitled to receipt of his or her

accumulated contributions upon retirement together with other retirement benefits provided in the law on the date of the member's retirement. However, the member shall not be eligible for a service retirement allowance under section four hundred eleven point six (411.6) of the Code if he or she has chosen to withdraw his or her accumulated contributions from the annuity savings fund.

6. Any member in service prior to July 1, 1979 may at the time of his or her retirement withdraw his or her accumulated contributions made before July 1, 1979 or receive an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement.

7. Notwithstanding the provisions of subsections one (1), three (3), four (4), five (5), and six (6) of this section, beginning January 1, 1981, an active or vested member may request in writing and receive from the board of trustees, his or her accumulated contributions from the annuity savings fund according to the following schedule:

a. During the period beginning January 1, 1981 and ending December 31, 1982, any member who has completed twenty or more years of service.

b. During the period beginning January 1, 1983 and ending December 31, 1984, any member who has completed fifteen or more years of service.

c. During the period beginning January 1, 1985 and ending December 31, 1986, any member who has completed ten or more years of service.

d. During the period beginning January 1, 1987 and ending December 31, 1988, any member who has completed five or more years of service.

8. The actuary shall annually determine the amount required in the annuity reserve fund. If the amount required is less than the amount in the annuity reserve fund, the respective board of trustees shall transfer the excess funds from the annuity reserve fund to the pension accumulation fund. If the amount required is more than the amount in the annuity reserve fund, the respective board of trustees shall transfer the amount prescribed by the actuary to the annuity reserve fund from the pension accumulation fund.

Sec. 64. Section ninety-seven C point two (97C.2), subsection three (3), Code 1977, is amended to read as follows:

3. The term "employee" includes elective and appointive officials of the state or any political subdivision thereof,

~~except members-of-the-general-assembly,~~ elective officials in positions, the compensation for which is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions; provided that no member of a county board of supervisors shall be deemed to be an elective official in a part-time position, but every member of a county board of supervisors shall be deemed to be an employee within the purview of this chapter and shall be eligible to receive all of the benefits provided by this chapter to which he may be entitled as an employee.

Sec. 65. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1978 and ending June 30, 1979 to the courts for a state contribution to the judicial retirement system provided for in chapter six hundred five A (605A) of the Code, the amount of one hundred ninety-five thousand seven hundred (195,700) dollars. The amount appropriated shall be in addition to the amount appropriated in section one (1), subsection one (1), of Senate File two thousand two hundred forty-six (2246), enacted by the Sixty-seventh General Assembly, 1978 Session.

Sec. 66. The legislative council is directed to approve the establishment of a joint subcommittee of the senate and house committees on state government to study during the legislative interim the funding, benefits, and administration of the various public retirement systems in this state. The study shall include but not be limited to a method of funding the judicial retirement system to provide actuarial soundness, a method for paying the accumulated contributions to the members of the peace officers' retirement system and the local police and fire retirement systems as early as is financially feasible, and a method of compensating public employees who are employed in hazardous duty occupations. In addition, the study shall include:

1. Determination of a method to place all public employees under a single retirement system over a period of twenty years.

2. Determination of a system of hazardous pay remuneration for various occupations in which employees are exposed to unusual danger.

3. Determination of the reasonable number of vested years of service for which employees will continue to retire under their present retirement benefit schedule; and determination of the minimum and maximum years of vested service for

personnel within a system wherein the vested employee may choose to receive the IPERS-hazardous pay system or remain under the employee's present system and the conditions of transfer of funds of the employee's present retirement system.

Sec. 67. Section sixty-four (64) of this Act is effective January 8, 1979.

Sec. 68. The sections of this Act amending sections of chapters ninety-seven A (97A) and four hundred eleven (411) of the Code are effective July 1, 1979.

Approved June 27, 1978

CHAPTER 1061

SMOKING PROHIBITED IN PUBLIC AREAS

S. F. 2022

AN ACT prohibiting smoking in certain public areas and providing a civil penalty.

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

Section 1. NEW SECTION. SMOKING DEFINED. As used in this Act, "smoking" means inhaling or exhaling the smoke of, or the possession or control of, a lighted cigarette, pipe, cigar, or little cigar as defined in section ninety-eight point forty-two (98.42), subsection sixteen (16) of the Code.

Sec. 2. NEW SECTION. SMOKING PROHIBITED IN CERTAIN AREAS. Smoking is prohibited in:

1. An elevator, indoor theater, library, art museum, concert hall, auditorium, or other similar facility which is open to the public. However, those in custody of buildings or facilities housing indoor theaters, libraries, art museums, concert halls, or other similar facilities open to the public may permit smoking by persons seated at tables provided for the purpose of consuming food or beverages served or provided on the premises and may make available smoking areas adjacent to such facilities within the same structure where the words "smoking permitted" are posted.

2. Those portions of a railroad passenger coach, passenger bus, passenger airplane, or other common carrier providing departures originating in this state, which portions are set aside by the person in custody or control of the carrier as non-smoking areas. Such areas shall be of sufficient capacity to accommodate all persons who do not wish to be seated in a smoking area.

3. A waiting room of a railroad or bus station or of an airport, except in areas designated by the person in custody or control of the facility as smoking areas.

4. A waiting room, rest room, lobby, or hallway of a hospital, clinic, medical laboratory, or other similar facility, except in areas designated by the person in custody or control of the facility as smoking areas.

5. A room of a health care facility as defined in section one hundred thirty-five C point one (135C.1) of the Code, hospital, clinic, or other medical facility used for the recuperation or care of patients, except in rooms designated by the person in custody or control of the facility as smoking rooms. The person in custody or control of the facility shall provide a sufficient number of rooms in which smoking is not permitted to accommodate all persons who desire such rooms.

6. A public building owned by or under the control of this state or any of its political subdivisions, except in areas designated by the controlling governmental body, officer, or agency as smoking areas.

Sec. 3. NEW SECTION. DESIGNATION OF SMOKING AREAS. The person or persons authorized to designate smoking areas pursuant to section two (2) of this Act shall not so designate an area where smoking is prohibited by any other statute, ordinance, or lawful rule of the United States, this state, or any of its political subdivisions.

Sec. 4. NEW SECTION. NO SMOKING AREAS POSTED. The person or persons having custody or control of a facility in which smoking is prohibited under section two (2) of this Act shall cause to be posted within the facility, or within the area or areas of the facility where the prohibition against smoking is in effect, one or more conspicuous signs bearing the words "smoking prohibited by law" or words or symbols of similar effect.

Sec. 5. NEW SECTION. ENFORCEMENT OF SMOKING PROHIBITION. The person in custody or control of a facility in which smoking is prohibited under section two (2) of this Act, or an employee of any such facility who is on duty therein, who observes a person smoking in that facility in violation of this Act shall inform the person that smoking is prohibited by law in that facility or that area of the facility, as the case may be.

Sec. 6. NEW SECTION. CIVIL PENALTY FOR VIOLATION. A person who smokes in those areas covered by section two (2) of this Act or who violates section four (4) of this Act shall

pay a civil fine of five dollars for the first violation and not less than ten nor more than one hundred dollars for each subsequent violation.

Judicial magistrates shall hear and determine violations of this Act. The civil fines paid pursuant to this Act shall be deposited in the county general fund.

Approved May 8, 1978

CHAPTER 1062

FACILITIES IN MULTIPLE DWELLINGS FOR HANDICAPPED

S. F. 384

AN ACT to provide that standards for facilities accessible to the physically handicapped shall apply to multiple-dwelling-unit buildings of twelve or more dwelling units, and to provide that all functions of public bathrooms available to the physically handicapped shall be accessible to those persons.

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

Section 1. Section one hundred four A point two (104A.2), Code 1977, is amended to read as follows:

104A.2 APPLICABILITY. The standards and specifications set forth in this chapter shall apply to all public and private buildings and facilities, temporary and permanent, used by the general public. The specific occupancies and extent of accessibility shall be in accordance with the conforming standards set forth in section 104A.6. Notwithstanding the standards set forth in section 104A.6, in every multiple-dwelling-unit building containing five twelve or more individual dwelling units the requirements of this chapter which apply to apartments shall be met by at least one dwelling unit or by at least ten percent of the dwelling units, whichever is the greater number, on ~~the-ground-floor-level~~ and-on each of the ~~other~~ floor levels in the building which are accessible to the physically handicapped. Any fraction five-tenths or below shall be rounded to the next lower whole unit.

Sec. 2. Section one hundred four A point three (104A.3), subsection five (5), Code 1977, is amended by striking the subsection.

Sec. 3. Section one hundred four A point three (104A.3), subsection seven (7), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

7. At each floor level which is accessible to the physically handicapped and on which public toilet or bathroom facilities are provided, those facilities shall be accessible to the physically handicapped. In each such public toilet or bathroom where functional equipment such as mirrors, basins, towel dispensers, and similar types of equipment are furnished, at least one of each type of functional equipment shall be accessible to the physically handicapped.

Approved April 13, 1978

CHAPTER 1063

REGISTRATION OF VESSELS

H. F. 211

AN ACT relating to the registration of vessels.

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

Section 1. Section one hundred six point five (106.5), subsection seven (7), Code 1977, is amended to read as follows:

7. If the owner of a currently registered vessel places such vessel in storage, he shall return the registration certificate to the county recorder with an affidavit stating that the vessel is placed in storage and the effective date of such storage. The county recorder shall notify the commission of each registered vessel placed in storage. When the owner of a stored vessel desires to renew the vessel's registration, he shall make application to the county recorder and pay the registration fees as provided in subsections 1 and 3 without penalty. No refund of registration fees shall be allowed for a stored vessel.

Sec. 2. Section one hundred six point six (106.6), subsection four (4), Code 1977, is amended by striking the subsection.

Sec. 3. This Act shall be effective January 1, 1979.

Approved May 8, 1978

CHAPTER 1064
HUNTING AND FISHING

H. F. 356

AN ACT relating to the administration of hunting, fishing and recreation programs and subjecting violators to penalties.

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

Section 1. Chapter one hundred seven (107), Code 1977, is amended by adding the following new section:

NEW SECTION. The commission shall not limit the number of applications submitted for consideration or the number of projects under construction with respect to United States heritage conservation and recreation service projects.

Sec. 2. Chapter one hundred nine (109), Code 1977, is amended by adding the following new section:

NEW SECTION. A person who is hunting shall not use a mobile radio transmitter to communicate the location or direction of game or to coordinate the movement of other hunters.

Sec. 3. Section one hundred nine point thirty-eight (109.38), subsection two (2), Code 1977, is amended to read as follows:

2. If following an investigation the commission finds that the number of hunters licensed to take deer or wild turkey should be limited or further regulated, the commission shall conduct a drawing to determine which applicants shall receive a license. Applications for licenses shall be received and accepted during a ~~fifteen-day~~ thirty-day period established by the commission. At the end of such period the drawing shall be conducted. If the quota has not been filled, licenses shall then be issued in the order in which such applications are received and shall continue to be issued until such quota has been met or until a date fifteen days prior to the opening day of the season, whichever first occurs. ~~If an applicant fails to receive a deer license by either of the methods provided herein, such applicant shall receive a certificate at the time his application and monetary remittance is returned to him which shall entitle him to a license the following year before the drawing is conducted by the commission.~~ If an applicant receives a deer license which is more restrictive than licenses issued to others for the same period and place, the applicant shall receive a certificate with his or her license entitling the

applicant to priority in the drawing for the less restrictive deer licenses the following year. The certificate must accompany that person's application the following year, or the applicant will not receive this priority. Persons purchasing a deer license for the gun season as provided under this section and under section one hundred ten point one (110.1) of the Code shall not be eligible for a deer-hunting license under the provisions of section one hundred ten point seventeen (110.17) of the Code. This subsection shall not apply to the hunting of wild turkey on game breeding and shooting preserves licensed under chapter 110A.

Sec. 4. Section one hundred nine point forty-eight (109.48), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

The commission may adopt rules for the taking and possession of migratory birds which are subject to the federal "Migratory Bird Treaty Act" and "Migratory Bird Stamp Hunting Act" during the time and in the manner permitted under those federal Acts. The commission shall not adopt a rule for the taking or possession of a migratory bird for which an open season is not authorized by another paragraph of this section.

Sec. 5. Section one hundred nine point seventy-four (109.74), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

109.74 WHERE PERMITTED. Trotlines and throw lines may be used in the border rivers of the state and in the inland waters. However, the commission may by rule prohibit the use of trotlines or throw lines in certain inland waters.

Sec. 6. Section one hundred nine point one hundred twenty-three (109.123), Code 1977, is amended to read as follows:

109.123 PROHIBITED HUNTING NEAR BUILDINGS. A person shall not hunt any game within ~~one~~ two hundred yards of any building inhabited by people or domestic livestock unless the owner or tenant has given consent.

Sec. 7. Chapter one hundred ten (110), Code 1977, is amended by adding the following new sections:

NEW SECTION. The commission shall not issue more than two operator's certificates for commercial fishing gear for each owner's certificate for commercial fishing gear.

NEW SECTION. A resident or nonresident person required to have a hunting or trapping license shall not hunt or trap unless he or she has on his or her person a valid wildlife habitat stamp signed in ink with his or her signature across

the face of the stamp. This section shall not apply to residents who are permanently disabled or who are younger than sixteen or older than sixty-five years of age. Special wildlife habitat stamps shall be administered in the same manner as hunting and trapping licenses except all revenue derived from the sale of the wildlife habitat stamps shall be used within the state of Iowa for habitat development and shall be deposited in the state fish and game protection fund. The revenue may be used for the matching of federal funds. The revenues and any matched federal funds shall be used for acquisition of land, leasing of land or obtaining of easements from willing sellers for use as wildlife habitats. Notwithstanding the exemption provided by section four hundred twenty-seven point one (427.1) of the Code, any land acquired with the revenues and matched federal funds shall be subject to the full consolidated levy of property taxes which shall be paid from those revenues. In addition such revenue may be used for the development, management and enhancement of wildlife lands and habitat areas. Not more than fifty percent of all revenue from the sale of wildlife habitat stamps may be used by the commission to enter into agreements with county conservation boards or other public agencies in order to carry out the purposes of this section. The share of funding of those agreements provided by the revenue from the sale of wildlife habitat stamps shall not exceed fifty percent.

NEW SECTION. For the purpose of obtaining a license, a person is permanently disabled if that person has been found under the provisions of the federal Social Security Act, title two (II), or any other public or private pension system to have a total, permanent physical or mental condition which prevents that person from engaging in his or her occupation or qualifies that person for retirement.

NEW SECTION. A county board of supervisors shall not authorize the payment of bounties on the following species: crow, rattlesnake, fox, wolf except coyote, wildcat or bobcat and lynx.

NEW SECTION. Any person required to have a fishing license shall not possess trout unless that person has at that time on his or her person an unexpired special trout license stamp validated by that person's signature written across the face of the stamp in ink, a receipt, or other evidence showing that such trout was lawfully acquired. The proceeds from the sale of this stamp shall be used exclusively to restock trout waters designated by the state conservation commission.

NEW SECTION.

1. A nonresident shall not hunt pheasants unless the pheasant stamp is purchased and affixed to the nonresident hunting license and the nonresident hunter possesses an unused pheasant tag. A nonresident shall not possess an untagged pheasant.

2. The pheasant stamp shall permit the license holder to hunt pheasants. The stamps shall be issued with tags in the amount of twice the possession limit established by the commission for pheasant. The tags shall bear the same number as the stamp and shall be designed to be used only once. A nonresident may purchase another pheasant stamp and tags when the tags of the previous stamp are exhausted.

NEW SECTION. The deer hunting license shall be accompanied by a tag designed to be used only once and separable into two parts. When a deer is taken, the deer shall be tagged with one part of the tag and both parts of the tag shall be dated.

Sec. 8. Section one hundred ten point one (110.1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter sixty-six (66), section six (6), is amended by striking the section and inserting in lieu thereof the following:

110.1 LICENSES. Except as otherwise provided in this chapter, no person shall fish, trap, hunt, pursue, catch, kill or take in any manner, or use or have possession of, or sell or transport all or any portion of any wild animal, bird, game or fish, the protection and regulation of which is desirable for the conservation of the resources of the state, without first procuring a license or certificate so to do and the payment of a fee as follows:

- 1. Fishing licenses:
 - a. Legal residents except as otherwise provided..... \$ 6.00
 - b. Legal residents permanently disabled or sixty-five years of age or older..... \$ 1.25
 - c. Lifetime license for legal residents permanently disabled or sixty-five years of age or older..... \$ 6.00
 - d. Nonresident license..... \$ 12.00
 - e. Three-day license for resident or nonresident..... \$ 3.00

f. Special trout license stamp.....	\$ 5.00
2. Hunting licenses:	
a. Legal residents except as otherwise provided.....	\$ 6.00
b. Legal residents permanently disabled or sixty-five years of age or older.....	\$ 1.25
c. Lifetime license for legal residents permanently disabled or sixty-five years of age or older.....	\$ 6.00
d. Deer hunting license for residents.....	\$ 15.00
e. Wild turkey hunting license for residents.....	\$ 15.00
f. Nonresidents hunting license.....	\$ 35.00
g. Nonresidents raccoon stamp and tags.....	\$100.00
h. Nonresidents pheasant stamp.....	\$ 5.00
3. Hunting and fishing combined licenses:	
a. Legal residents except as otherwise provided.....	\$ 11.00
b. Legal residents permanently disabled or sixty-five years of age or older.....	\$ 2.50
c. Lifetime license for residents permanently disabled or sixty-five years of age or older.....	\$ 8.00
4. Trapping and game breeders licenses:	
a. Trapping license for legal residents sixteen years of age or older.....	\$ 10.00
b. Trapping license for legal residents under sixteen years of age.....	\$ 1.00
c. Trapping license for non- residents.....	\$100.00
d. Fur dealers license for resi- dents.....	\$150.00
e. Fur dealers license for non- residents.....	\$300.00

f. Game breeder's license.....	\$ 10.00
5. Net, seine, trap, commercial trotline licenses for residents:	
a. Seine:	
For the first 500 lineal feet or fraction thereof \$10.00 and for each additional 500 feet or frac- tion thereof.....	\$ 15.00
b. Trammel net:	
For each 300 lineal feet or fraction thereof.....	\$ 10.00
c. Gill net:	
For each 100 lineal feet or frac- tion thereof.....	\$ 2.00
d. All other nets, for each net.....	\$ 1.00
e. Basket traps, for each trap.....	\$ 1.00
f. Commercial trotline:	
For each trotline.....	\$ 1.00
g. Owner's certificate for commercial fishing gear.....	\$ 25.00
h. Operator's certificate for each person operating commercial fishing gear.....	\$ 1.00
6. Net, seine, trap, commercial trotline licenses for nonresidents eligible to purchase such licenses:	
a. Seine:	
For each 500 lineal feet or frac- tion thereof.....	\$ 20.00
b. Trammel net:	
For each 300 lineal feet or frac- tion thereof.....	\$ 20.00
c. Gill net:	
For each 300 lineal feet or frac- tion thereof.....	\$ 20.00
d. All other nets, for each net.....	\$ 3.00
e. Basket traps, for each trap.....	\$ 3.00
f. Commercial trotlines, for each trotline.....	\$ 4.00
7. Other licenses:	
a. Mussel licenses:	

(1) Legal residents.....	\$ 10.00
(2) Nonresidents.....	\$ 25.00
b. Wholesale fish-market or fish-peddler's license for residents.....	\$ 10.00
c. Wholesale fish-market license for nonresidents.....	\$ 25.00
d. Wholesale fish-peddler's license for nonresidents.....	\$ 10.00
e. Peddlers, employed by wholesale fish market, certificate.....	\$ 1.00
f. Scientific collector's license.....	\$ 2.00
g. Private fish hatcheries.....	\$ 10.00
h. Bait dealer's license for residents.....	\$ 25.00
i. Bait dealer's license for nonresidents.....	\$ 50.00
j. Taxidermy license.....	\$ 10.00
k. Falconry license.....	\$ 10.00
l. Nongame support certificate.....	\$ 5.00
m. Special wildlife habitat stamp.....	\$ 3.00

Sec. 9. Section one hundred ten point four (110.4), Code 1977, is amended to read as follows:

110.4 DEPOSITARIES--BOND. The county recorder may designate various depositaries for the sale of such licenses other than the office of the county recorder. The director may designate depositaries other than those designated by the recorders of the various counties but in so doing the interest of the state shall be fully protected either by a sufficient cash deposit or a satisfactory bond. Depositaries designated by the county recorder or the director may have the privilege of charging an additional ~~five-percent-of-the cost-of~~ twenty-five cents for each license to be retained for the service rendered in issuing the license.

Sec. 10. Section one hundred ten point five (110.5), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The county recorder may require that a writing fee of twenty-five cents be charged for each license sold by the county recorder's office. The writing fees from the sale of licenses by the county recorder shall be deposited in the county general fund.

Sec. 11. Section one hundred ten point fourteen (110.14), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The magistrate shall revoke the hunting license or suspend the privilege of procuring a hunting license for a period of one year of any person who has been convicted twice within a year of trespassing while hunting. If the hunting privileges of a hunting and fishing combined license are revoked, the fishing privileges of the license shall still be valid and the magistrate shall enter on the license that the hunting privileges are revoked. A person shall not purchase a license for a privilege that was revoked or suspended during the period of revocation or suspension.

Sec. 12. Section one hundred ten point seventeen (110.17), unnumbered paragraph ten (10), Code 1977, is amended to read as follows:

The commission shall upon request issue without charge a special fishing license to residents of Iowa sixteen years or more of age who the commission finds are mentally or physically severely handicapped. ~~Such special license shall be valid only when the holder is fishing under supervision.~~ The commission is hereby authorized to prepare an application to be used by the person requesting handicapped status, which would require that his attending physician sign the form declaring the person handicapped and eligible for exempt status.

Sec. 13. Section one hundred ten point eighteen (110.18), Code 1977, is amended to read as follows:

110.18 COURTESY NONRESIDENT LICENSES. The commission is hereby authorized to issue a courtesy nonresident license for the taking of any fish or game, except deer. Such licenses may be issued by the ~~director of the~~ commission, without charge, to ~~dignitaries and~~ officials of other states, countries, or the United States who are in the state as guests of the governor or the commission. Such licenses shall be issued for a specific number of days. The commission shall establish policies for the issuance of each license and such policies shall be subject to review by the administrative rules review committee pursuant to section seventeen A (17A) of the Code. The commission shall enter each issuance in its minutes. The number of licenses to be issued for any one season or species of fish or game shall not exceed one hundred fifty.

Sec. 14. Section one hundred ten B point two (110B.2), Code 1977, is amended to read as follows:

110B.2 STAMP REQUIRED. No person sixteen years of age or older shall hunt or take any migratory waterfowl within this state without first procuring a state migratory waterfowl stamp and having such stamp in his or her possession while hunting or taking any migratory waterfowl. Each stamp shall be validated by the signature of the licensee written across the face of such stamp. The commission shall determine the form of the stamp and shall furnish the stamps to the county recorders and their designated depositaries for issuance or sale in the same manner as hunting licenses are issued or sold under chapter 110.

Sec. 15. Section one hundred ten B point three (110B.3), Code 1977, is amended to read as follows:

110B.3 FEE. The fee for each stamp issued under this chapter shall be ~~one-dollar~~ five dollars. Each stamp shall expire on the last day of February following its issuance.

Sec. 16. Section three hundred twenty-one G point seven (321G.7), Code 1977, is amended to read as follows:

321G.7 FEES TO CONSERVATION FUND. ~~All~~ Seventy-five percent of the fees collected from the registration of snowmobiles shall be forwarded by the county recorder to the commission for remission to the treasurer of state, who shall place such money in the state conservation fund. The fees collected forwarded shall be appropriated by the general assembly to the commission solely for their use. Twenty-five percent of the fees collected from the registration of snowmobiles shall be deposited by the county recorder in the county conservation fund or the county general fund if there is no county conservation fund. These fees may be used for snowmobile programs and other programs deemed appropriate by the county conservation board or the board of supervisors if there is no county conservation board.

Sec. 17. Notwithstanding the provisions of section thirteen (13) of this Act, the state conservation commission shall not issue any courtesy nonresident licenses under section one hundred ten point eighteen (110.18) of the Code during the calendar year beginning January 1, 1979 and ending December 31, 1979.

Sec. 18. INTENT.

1. It is the intent of the general assembly that the succeeding general assembly appropriate funds for additional field officers for the state conservation commission with

the funds made available by the license fee increases provided in this Act.

2. It is the intent of the general assembly that the state conservation commission temporarily assign its personnel who are qualified as peace officers, regardless of their permanent assignments, to enforce the game laws during the days of greatest hunting activity.

Sec. 19. This Act is effective January 1, 1979. However, effective July 1, 1978 and notwithstanding section one hundred ten point one (110.1) of the Code, the fee for a deer hunting license for residents shall be fifteen dollars and the fee for a nonresident hunting license shall be thirty-five dollars.

Approved June 23, 1978

CHAPTER 1065

TRAPPING OF ANIMALS

H. F. 2284

AN ACT relating to the trapping of fur-bearing animals including the checking of traps and stamping of pelts.

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

Section 1. Section one hundred nine point ninety-two (109.92), unnumbered paragraph one (1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter sixty-six (66), section four (4), is amended to read as follows:

Except as otherwise provided in this chapter no person shall at any time, use or attempt to use any colony traps in taking, capturing, trapping or killing any game or fur-bearing animal. Box traps capable of capturing more than one game or fur-bearing animal at each setting are prohibited. A valid hunting license is required for box trapping cottontail rabbits and squirrels. All traps used for the taking of fur-bearing animals shall have a metal tag attached plainly labeled with the owner's name and address. All traps, except those which are placed entirely under water, shall be checked at least once every twenty-four hours. Officers appointed by the commission shall have authority to confiscate such traps when found in use that are not properly labeled or checked.

Sec. 2. Section one hundred nine point ninety-seven (109.97), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter sixty-six (66), section five (5), is amended to read as follows:

109.97 REPORTS. Fur dealers shall keep accurate, current records of their transactions. The records shall show the number and kinds of hides and skins which have been purchased, the date of purchase, and the name and address of the seller. Such records shall be open at all reasonable times to inspection by the commission. On or before May fifteenth of each year, each fur dealer shall file a verified inventory with the commission. The inventory shall include all transactions for the preceding year. ~~All pelts purchased shall, as soon as practicable, be stamped in a conspicuous manner by the fur dealer. Such stamp shall be in indelible ink and bear the license number of the dealer.~~

Sec. 3. This Act is effective January 1, 1979.

Approved May 16, 1978

CHAPTER 1066

PUBLIC USE OF MINES OR CAVES

H. F. 127

AN ACT to include abandoned or inactive surface mines in the limitation of liability for allowing public use of private land.

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

Section 1. Section one hundred eleven C point two (111C.2), subsection one (1), Code 1977, is amended to read as follows:

1. "Land" means abandoned or inactive surface mines, caves, and land used for agricultural purposes, including marshlands, timber, grasslands and the privately owned roads, water, water courses, ~~eaves~~, private ways and buildings, structures and machinery or equipment appurtenant thereto.

Sec. 2. This Act is effective January 1, 1979.

Approved May 9, 1978

CHAPTER 1067

SUNDAY HOURS OF LIQUOR SALES

H. F. 2162

AN ACT relating to the hours during which alcoholic beverages and beer may be sold on a Sunday when the following Monday is New Year's day by liquor control licensees and beer permittees.

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

Section 1. Notwithstanding sections one hundred twenty-three point two (123.2), section one hundred twenty-three point thirty-six (123.36), subsection six (6), section one hundred twenty-three point forty-nine (123.49), subsection two (2), paragraph b, and section one hundred twenty-three point one hundred thirty-four (123.134), subsection five (5), of the Code, a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense such liquor or beer to patrons for consumption on the premises between the hours of noon on Sunday and two a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of noon Sunday and ten p.m. Sunday when that Sunday is the day before New Year's Day. The liquor control license fee or beer permit fee of licensees and permittees permitted to sell or dispense such liquor or beer on a Sunday when that Sunday is the day before New Year's Day shall not be increased because of this privilege.

It is the intent of this section that the special privileges granted shall be in force only during the specified times provided in this section.

Approved June 5, 1978

CHAPTER 1068

BEER AND LIQUOR CONTROL

H. F. 351

AN ACT to clarify and further define "licensed premises" or "premises"; to remove the restriction that the Iowa beer and liquor control department's headquarters and principal place of business be located only in the city of Des Moines; to prevent premises on which a liquor control license or beer permit has been suspended from being relicensed within a designated period of time; to prohibit a person holding a liquor control license or beer permit from permitting or engaging in illegal activities on the licensed premises; and to remove the restriction that a retail beer permittee can own only one class of retail beer permit.

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

Section 1. Section one hundred twenty-three point three (123.3), subsection thirty-one (31), Code 1977, is amended to read as follows:

31. "Licensed premises" or "premises" means all rooms ~~or~~ enclosures, contiguous areas, or places susceptible of precise description satisfactory to the director where alcoholic beverages or beer ~~are~~ is sold or consumed under authority of a liquor control license or beer permit. A single licensed premises may consist of multiple rooms, enclosures, areas or places if they are wholly within the confines of a single building or contiguous grounds.

Sec. 2. Section one hundred twenty-three point four (123.4), Code 1977, is amended to read as follows:

123.4 DEPARTMENT CREATED--PLACE OF BUSINESS. There is hereby created an Iowa beer and liquor control department to administer and enforce the laws of this state concerning beer and alcoholic liquor. The principal place of business of the department shall be ~~in-the-city-of-Des-Moines,-and suitable-quarters-or-offices-shall-be~~ provided the department ~~in-such-city~~ by the authority designated by law to provide such quarters or offices to state departments or agencies.

Sec. 3. Section one hundred twenty-three point thirty-nine (123.39), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a liquor license or beer permit is suspended after a hearing as a result of violations of the provisions of this chapter by the licensee, permittee or his or her agents or employees, the premises which were licensed by such license or permit shall not be relicensed

for a new applicant until the suspension has terminated or time of suspension has elapsed, or ninety days has elapsed since the commencement of the suspension, whichever occurs first. However, nothing in this section shall prohibit the premises from being relicensed to a new applicant before the suspension has terminated or before the time of suspension has elapsed or before ninety days have elapsed from the commencement of the suspension, if the premises prior to the time of the suspension had been purchased under contract, and the vendor under that contract exercised the person's rights under chapter six hundred fifty-six (656) of the Code and sold the property to a different person who is not related to the previous licensee or permittee by marriage or within the third degree of consanguinity or affinity and if the previous licensee or permittee does not have a financial interest in the business of the new applicant.

Sec. 4. Section one hundred twenty-three point forty-nine (123.49), subsection two (2), Code 1977, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH.

j. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

Sec. 5. Section one hundred twenty-three point one hundred forty (123.140), Code 1977, is amended to read as follows:

123.140 SEPARATE LOCATIONS--CLASS "B" OR "C". Every person holding a class "B" or class "C" permit having more than one place of business where such beer is sold which places do not constitute a single premises within the meaning of section one hundred twenty-three point three (123.3), subsection thirty-one (31) of the Code shall be required to have a separate license for each separate place of business, except as otherwise provided by this chapter.

Sec. 6. Section seven hundred twenty-eight point five (728.5), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. If such person advertises that any activity prohibited by this section is allowed or permitted in such licensed premises.

Sec. 7. Section one hundred twenty-three point one hundred twenty-six (123.126), Code 1977, is repealed.

Approved May 16, 1978

CHAPTER 1069
LEGAL DRINKING AGE

H. F. 112

AN ACT establishing the legal age for the sale to and consumption of beer and alcoholic beverages at nineteen years of age.

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

Section 1. Section one hundred twenty-three point three (123.3), subsection thirty-three (33), Code 1977, is amended to read as follows:

33. "Legal age" means ~~eighteen~~ nineteen years of age or more.

Sec. 2. Section one hundred twenty-three point forty-nine (123.49), subsection two (2), paragraph f, Code 1977, is amended to read as follows:

f. Any person under ~~legal~~ eighteen years of age shall not be employed in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.

Sec. 3. The provisions of this Act shall not apply to persons who were born on or before June 30, 1960.

Approved June 29, 1978

CHAPTER 1070
COUNTY HOSPITAL TREATMENT

S. F. 158

AN ACT to amend or revise certain code sections affected by the repeal of former chapter two hundred fifty-four (254) of the Code.

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

Section 1. Section one hundred thirty-five B point thirty-one (135B.31), Code 1977, is amended to read as follows:

135B.31 EXCEPTIONS. Nothing in this division is intended or should affect in any way that obligation of public hospitals under chapter 347 or municipal hospitals, as well as the state hospital at Iowa City, to provide medical treatment for indigent persons ~~or tuberculosis patients as provided in chapters 254 and~~ under chapter 255, wherein medical treatment is provided by hospitals of that category to patients of certain entitlement, nor to the operation by the state of mental or other hospitals authorized by law. Nothing herein

shall in any way affect or limit the practice of dentistry or the practice of oral surgery by a dentist.

Sec. 2. Section three hundred forty-seven point sixteen (347.16), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

347.16 TREATMENT IN COUNTY HOSPITAL--TERMS.

1. Any resident of a county in this state who is sick or injured shall be entitled to care and treatment in any public hospital established and maintained by that county under this chapter, so long as that person observes the rules of conduct prescribed by the board of hospital trustees. Each patient admitted under this subsection, or the person legally liable for that patient's support, shall pay to the board of hospital trustees reasonable compensation for that patient's care and treatment according to the rules established by the board, unless subsection two (2) of this section is applicable.

2. Free care and treatment shall be furnished in a county public hospital to any sick or injured person who has legal settlement under section two hundred fifty-two point sixteen (252.16) of the Code in the county maintaining the hospital, and who is indigent. The board of hospital trustees shall determine whether a person is indigent and entitled to free care under this subsection, or may delegate that determination to the overseer of the poor or the office of the department of social services in that county, subject to such guidelines as the board may adopt in conformity with applicable statutes.

3. Care and treatment may be furnished in a county public hospital to any sick or injured person who has legal settlement outside the county which maintains the hospital, subject to such policies and rules as the board of hospital trustees may adopt. If care and treatment is provided under this subsection to a person who is indigent, the county in which that person has legal settlement shall pay to the board of hospital trustees the fair and reasonable cost of the care and treatment provided by the county public hospital unless the cost of the indigent person's care and treatment is otherwise provided for.

4. A county public hospital may, but shall not be required to, provide care and treatment for persons afflicted with tuberculosis. If treatment for tuberculosis is provided by a county public hospital, the provisions of this section shall be applicable to persons admitted to that hospital for such treatment.

Sec. 3. Section three hundred forty-seven point seventeen (347.17), Code 1977, is amended to read as follows:

347.17 ACCOUNTS--COLLECTION. It shall be the duty of the trustees either by themselves or through the superintendent to make collections of all accounts for hospital services rendered ~~for-others~~ to persons other than indigent patients ~~or-patients~~ entitled to free care as provided in ~~chapter-254~~ section two (2) of this Act. Such account shall be payable on presentation to the person liable therefor of an itemized statement and if not paid or secured within sixty days after such presentation the said trustees shall proceed to enforce collections by such means as are necessary and are authorized to employ any person for that purpose, and if legal proceedings are required they may employ counsel, the employment in either event to be on such arrangement for compensation as the trustees deem appropriate, provided, however, that should the county attorney act as attorney for the board in any such legal proceedings he shall serve without additional compensation.

Sec. 4. Section four hundred forty-four point twelve (444.12), subsection one (1), Code 1977, is amended by striking paragraph d.

Approved June 12, 1978

CHAPTER 1071

HEALTH FACILITIES COUNCIL

H. F. 630

AN ACT to appropriate funds to the department of health to be used to discharge the responsibilities of the department under House File three hundred fifty-four (354)*, Acts of the Sixty-seventh General Assembly, 1977 session, and to establish the salaries of members of the state health facilities council established by that Act.

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

Section 1. There is appropriated from the general fund of the state to the state department of health for the fiscal year beginning July 1, 1977 and ending June 30, 1978, the sum of sixty-seven thousand three hundred forty-two (67,342) dollars, or so much thereof as may be necessary, to be used for salaries, support, maintenance and miscellaneous purposes by the department in discharging its statutory responsibility

* Chapter 75

to begin preparations to implement House File three hundred fifty-four (354), Acts of the Sixty-seventh General Assembly, 1977 Session.

Sec. 2. The members of the state health facilities council established by House File three hundred fifty-four (354), section two (2), Acts of the Sixty-seventh General Assembly, 1977 Session, shall each receive a salary at the rate of five thousand dollars per year from the date of their respective appointments for the balance of the fiscal year ending June 30, 1978. The council members' salaries shall be paid from the funds appropriated by section one (1) of this Act.

Sec. 3. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter seventy-five (75), is amended by adding the following new section:

NEW SECTION. CONTRACTS FOR ASSISTANCE WITH ANALYSES, STUDIES AND DATA. In furtherance of the department's responsibilities under sections sixteen (16), seventeen (17) and eighteen (18) of this chapter, the commissioner may contract with the Iowa hospital association and third party payers, the Iowa health care facilities association and third party payers, or the Iowa association of homes for the aging and third party payers for the establishment of pilot programs dealing with prospective rate review in hospitals or health care facilities, or both. Such contract shall be subject to the approval of the executive council and shall provide for an equitable representation of health care providers, third party payers, and health care consumers in the determination of criterion for rate review. No third party payer shall be excluded from positive financial incentives based upon volume of gross patient revenues. No state or federal funds appropriated or available to the department shall be used for any such pilot program.

Sec. 4. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Waterloo Courier, a newspaper published in Waterloo, Iowa, and in the Tama News-Herald, a newspaper published in Tama, Iowa.

Approved May 8, 1978

I hereby certify that the foregoing Act, House File 630, was published in the Waterloo Courier, Waterloo, Iowa on May 12, 1978, and in the Tama News-Herald, Tama, Iowa on May 18, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1072
RADIATION EMITTING EQUIPMENT

H. F. 82

AN ACT placing with the department of health the authority for regulating the installation and use of radiation emitting equipment and providing a penalty.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Commissioner" means the commissioner of public health or a designee.
2. "Department" means the state department of health.
3. "Materials" means substances other than equipment which are capable of emitting radiation but does not include drugs as defined in chapter two hundred three A (203A) of the Code.
4. "Radiation" means energy forms capable of causing ionization including alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed protons, and other atomic particles, but does not include sound or radio waves, or visible light, or infrared or ultraviolet light.

Sec. 2. NEW SECTION. APPLICABILITY. The provisions of this Act apply to all equipment or materials which are located in this state and which are designed to emit radiation. The provisions of this Act shall not supersede or duplicate the authority and programs of any other agency of the state or the United States government. To avoid duplication and promote coordination of radiation protection activities, the department may enter into agreements pursuant to chapter twenty-eight E (28E) of the Code with other state and federal agencies, or with private organizations or individuals, to administer the provisions of this Act.

Sec. 3. NEW SECTION. POWERS AND DUTIES. The department shall be responsible for regulating the installation and use of radiation-producing equipment and materials in this state. The department shall:

1. Inspect at the time of installation, reinstallation or major component change and periodically inspect thereafter, all equipment and materials located in this state, for the purpose of detecting, abating, or eliminating excessive exposure hazards. The inspection shall include but shall not be limited to an evaluation of the equipment as well as

the immediate environment to insure that in using equipment and materials all unnecessary hazards for patients, personnel, and other persons who may be exposed to radiation produced by the equipment or materials are avoided. The department shall establish rules prescribing operating procedures for equipment and materials which insure minimum radiation exposure to patients, personnel, and other persons in the immediate environment. The inspection shall include inspection of the tube housing, beam restricting devices, filtration, exposure switches, control panel, and exposure timing switch. The inspector shall certify that protections against electrical hazards as well as the mechanical supporting and restraining devices used are adequate and that a device to monitor radiation exposure is available. All defects and deficiencies noted by the inspector shall be fully disclosed and discussed with the responsible persons at the time of inspection.

2. Establish minimum criteria and safety standards for the installation, operation and use of radiation emitting equipment and materials.

3. Establish minimum training standards for operators. All operators of equipment and users of material who are licensed by the state to practice medicine, osteopathy, chiropractic, podiatry, dentistry, dental hygiene or veterinary medicine shall be deemed to have satisfied the minimum training standards.

4. Establish a system for the registration of the possession of radiation emitting equipment and materials in the state.

5. Establish and collect fees for the registration and for the periodic inspection of radiation emitting equipment and materials. Fees shall be in amounts sufficient to defray the cost of administering the provisions of this Act. All fees collected shall be remitted to the treasurer of state who shall deposit the funds in the general fund of the state.

6. Adopt, publish and amend rules, in accordance with the provisions of chapter seventeen A (17A) of the Code as may be necessary for the implementation and enforcement of the provisions of this Act.

Sec. 4. NEW SECTION. PENALTIES. It is unlawful to operate or utilize radiation emitting equipment or material in violation of the provisions of this Act or of any rule adopted pursuant to this Act. Persons convicted of violating the provisions of this Act shall be guilty of a simple misdemeanor.

Sec. 5. NEW SECTION. ENFORCEMENT. Upon determination

by the commissioner that this Act or any rule adopted pursuant to this Act has been or is being violated, the commissioner may order that the radiation emitting equipment or materials not be used until the necessary corrective action has been taken. Should the equipment or materials continue to be used in violation of the order of the commissioner, the commissioner may request the county attorney or the attorney general to make an application in the name of the state to the district court of the county in which the violations may have occurred for an order to enjoin such violations or practices.

Sec. 6. This Act is effective January 1, 1979.

Approved May 9, 1978

CHAPTER 1073

BIRTH CERTIFICATES FOR FOREIGN-BORN ADOPTED PERSONS

H. F. 547

AN ACT relating to birth certificates for adopted persons not born in Iowa.

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

Section 1. Section one hundred forty-four point twenty-three (144.23), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The state registrar shall establish a certificate of birth as provided in section six hundred point thirteen (600.13), subsection five (5), of the Code, for any adopted person born in a foreign country which person is a resident of this state, upon receipt of the adoption certificate provided for in section one hundred forty-four point nineteen (144.19) of the Code or upon receipt of a certified copy of the decree of adoption, together with information necessary to establish a new certificate of birth. This certificate of birth, if for an adopted person born in a foreign country, shall show specifically the true or probable country of birth and that the certificate is not evidence of United States citizenship. However, a new certificate of birth shall not be established if so requested by the court decreeing the adoption, the adoptive parents, or the adopted person.

Sec. 2. Section six hundred point thirteen (600.13), subsection five (5), Code 1977, is amended to read as follows:

5. An interlocutory or a final adoption decree shall

be entered with the clerk of the court. Such decree shall set forth any facts of the adoption petition which have been proven to the satisfaction of the court and any other facts considered to be relevant by the court and shall grant the adoption petition. If so designated in the adoption decree, the name of the adopted person shall be changed by issuance of that decree. The clerk of the court shall, within thirty days of issuance, deliver one certified copy of any adoption decree to the petitioner, one copy of any adoption abstract to the department and any agency or person making an independent placement who placed a minor person for adoption, and one certification of adoption as prescribed in section 144.19 to the state registrar of vital statistics. Upon receipt of the certification, the state registrar shall prepare a new birth certificate pursuant to section 144.23 and deliver to the parents named in the decree and any adult person adopted by the decree a copy of the new birth certificate. The parents shall pay the fee prescribed in section 144.46. If the person adopted was born outside the state, the state registrar shall forward the certification of adoption to the appropriate agency in the state or foreign nation of birth. A copy of any interlocutory adoption decree vacation shall be delivered and another birth certificate shall be prepared in the same manner as a certification of adoption is delivered and the birth certificate was originally prepared.

Approved March 22, 1978

CHAPTER 1074

EMERGENCY MEDICAL TECHNICIANS AND PARAMEDICS

S. F. 2076

AN ACT relating to the training and certification of and the services performed by advanced emergency medical technicians and paramedics, authorizing the department of health and the board of medical examiners to make rules pursuant to this Act with the advice of an advanced emergency medical care council, and imposing penalties.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Advanced emergency medical care" means such medical procedures as:
 - a. Administration of intravenous solutions.
 - b. Gastric or tracheal suction or intubation.

c. Performance of cardiac defibrillation.
d. Administration of parenteral injections of any of the following classes of drugs:

- (1) Antiarrhythmic agents;
- (2) Vagolytic agents;
- (3) Chronotropic agents;
- (4) Analgesic agents;
- (5) Alkalizing agents;
- (6) Vasopressor agents;
- (7) Anticonvulsive agents; or
- (8) Other drugs which may be deemed necessary by the supervising physician.

e. Any other medical procedure designated by the board, by rule, as appropriate to be performed by advanced EMTs and paramedics who have been trained in the procedure.

2. "EMT" is an abbreviation used in lieu of the term "emergency medical technician".

3. "Basic EMT" means an individual who has satisfactorily completed the United States department of transportation's prescribed course for basic EMT's, as modified for this state, and adopted by rule by the board, and has complied with any additional requirements established by the board, but who is not certified to perform any of the procedures listed in subsection one (1) of this section.

4. "Advanced EMT" means an individual trained to provide advanced emergency medical care, and who has been issued an advanced EMT certificate by the board.

5. "Paramedic" means an individual trained in all areas of advanced emergency medical care, and who has been issued a paramedic certificate by the board.

6. "Council" means the advanced emergency medical care council established by this Act.

7. "Commissioner" means the commissioner of public health.

8. "Department" means the department of health.

9. "Board" means the board of medical examiners appointed pursuant to section one hundred forty-seven point fourteen (147.14), subsection two (2), of the Code.

10. "Physician" means an individual licensed under chapter one hundred forty-eight (148), one hundred fifty (150), or one hundred fifty A (150A) of the Code.

Sec. 2. NEW SECTION. COUNCIL ESTABLISHED--TERMS OF OFFICE. There is established in the department an advanced emergency medical care council to advise the commissioner, the board of health, and the board on the administration of this Act.

1. The council shall consist of the commissioner, or the commissioner's designee, and eleven members appointed by the board of health for terms of three years beginning July first of the year of appointment, and extending as necessary until their successors are appointed. Any vacancy occurring before the expiration of a term shall be filled by the board of health by appointment from the appropriate class of persons for the balance of the unexpired term. The first appointees to the council after the effective date of this Act shall take office immediately, regardless of the date of their appointments.

2. Five of the appointed members shall be physicians, no more than two of whom shall be appointed from any one of the seven emergency medical service regions designated in this state. Two of the physicians first appointed after the effective date of this Act shall be designated to serve terms of one year each, and two of them to serve terms of two years each.

3. Two of the appointed members shall be EMTs, and one shall be a person employed in that capacity on a full-time basis. One of the EMTs first appointed to the council after the effective date of this Act shall be designated to serve a term of one year, and one of them to serve a term of two years. Beginning not later than two years after the effective date of this Act, at least one of the EMT members of the council shall be a paramedic or an advanced EMT.

4. One of the appointed members shall be a registered nurse.

5. One of the appointed members shall be a registered nurse who has a bachelor's degree and is a qualified nursing instructor.

6. One of the appointed members shall represent volunteer ambulance services, and one shall represent full-time ambulance services.

Sec. 3. NEW SECTION. MEETINGS OF THE COUNCIL--QUORUM--EXPENSES.

1. The council shall meet within sixty days after the appointment of its members, and at least quarterly thereafter. The commissioner shall designate the place of meeting. Special meetings may be called by the commissioner or upon the written request of any four members explaining the reason for the meeting.

2. The commissioner shall convene the first meeting of the council after the effective date of this Act, at which

the council shall select such officers as it deems necessary. No action shall be taken by the council without the affirmative votes of a majority of its entire membership, except that a lesser number may adjourn or recess a meeting.

3. Appointed members of the council shall receive no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in attending meetings or otherwise discharging their official duties at places away from their places of residence.

Sec. 4. NEW SECTION. RULE-MAKING AUTHORITY.

1. The department, with the advice and assistance of the council, shall promulgate rules required or authorized by this Act pertaining to the operation of ambulance services and rescue squad services which have obtained authority under section five (5) of this Act to utilize the services of certified advanced EMTs or paramedics. These rules shall include, but need not be limited to, requirements concerning physician supervision, necessary equipment and staffing, and reporting by ambulance services and rescue squad services which have obtained such authority pursuant to section five (5) of this Act.

2. The board, with the advice and assistance of the council, shall promulgate rules required or authorized by this Act pertaining to the certification of advanced EMTs and paramedics. These rules shall include, but need not be limited to, requirements concerning prerequisites, training and experience for advanced EMTs and paramedics and procedures for determining when individuals have met these requirements.

Sec. 5. NEW SECTION. APPLICATIONS FOR ADVANCED EMT AND PARAMEDIC PROGRAMS--APPROVAL--DENIAL, SUSPENSION OR REVOCATION.

1. Any ambulance service or rescue squad service in this state, regularly engaged in transporting patients who may require advanced emergency medical care before or during such transportation, may apply to the department for authorization to establish a program utilizing certified advanced EMTs or paramedics for delivery of such care at the scene of an emergency, during transportation to a hospital, or while in the hospital emergency department, and until care is directly assumed by a physician or by authorized hospital personnel. The application must bear the endorsement of a physician, but that physician shall not be liable nor responsible for the actions of the ambulance or rescue squad service nor the personnel thereof.

2. The department, with the advice and consent of the council shall approve an application submitted in accordance with the requirements of subsection one (1) of this section when the council is satisfied that the program proposed by the application will be operated in compliance with this Act and the rules adopted pursuant to this Act.

3. The department may deny an application for authority to establish, or suspend or revoke any existing authorization for, any program utilizing the services of certified advanced EMTs or paramedics if the council finds reason to believe the program has not been or will not be operated in compliance with this Act and the rules adopted pursuant to this Act, or that there is insufficient assurance of adequate protection for the public. The denial, suspension or revocation shall be effected, and may be appealed as provided by section seventeen A point eighteen (17A.18) of the Code.

Sec. 6. NEW SECTION. ADVANCED EMT AND PARAMEDIC CERTIFICATES--RENEWAL.

1. The board shall, upon application, issue a certificate attesting to the qualifications of any individual who has met all of the requirements for a specific EMT category which are established by the rules promulgated under section four (4), subsection two (2) of this Act.

2. An EMT certificate shall be valid for two years from the date of its issuance, unless sooner suspended or revoked. Such a certificate shall be renewed upon application of the holder if he or she has satisfactorily completed ongoing educational programs established or approved by the department with the concurrence of the board.

Sec. 7. NEW SECTION. DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATES--APPEAL.

1. The board may deny an application for issuance or renewal of an advanced EMT or paramedic certificate, or suspend or revoke such a certificate when it finds that the applicant or certificate holder has:

- a. Acted negligently in performing the authorized services;
- b. Failed to follow the directions of his or her supervising physician;
- c. Rendered treatment not authorized under this Act; or
- d. Violated any of the provisions of or failed to comply with pertinent requirements of this Act or of the rules adopted pursuant to this Act.

2. A denial, suspension or revocation under this section shall be effected, and may be appealed, as provided by section seventeen A point eighteen (17A.18) of this Code.

Sec. 8. NEW SECTION. AUTHORITY OF CERTIFIED ADVANCED EMT OR PARAMEDIC. An advanced EMT or a paramedic properly certified under this Act may:

1. Render advanced emergency medical care, rescue, and resuscitation services in those areas for which he or she is certified as defined and approved in accordance with the rules of the board.

2. While employed by or assigned to a hospital or other medical facility, or an ambulance service or rescue squad service, and caring for patients in the course of that assignment, administer parenteral medications under the direct supervision of a physician or of another individual specifically designated by the responsible physician.

Sec. 9. NEW SECTION. REMOTE SUPERVISION OF PARAMEDIC-EMERGENCY COMMUNICATIONS FAILURE.

1. When voice contact or a telemetered electrocardiogram is monitored by a physician or physician's designee, and direct communication is maintained, an advanced EMT or a paramedic may upon order of the monitoring physician or upon standing orders of a physician transmitted by the monitoring physician's designee perform any advanced emergency medical care procedure for which that advanced EMT or paramedic is certified.

2. If communications fail during an emergency situation, the advanced EMT or paramedic may perform any advanced emergency medical care procedure for which that individual is certified and included in written protocols if in the judgment of the advanced EMT or paramedic the life of the patient is in immediate danger and such care is required to preserve his or her life.

Sec. 10. NEW SECTION. EXEMPTIONS FROM LIABILITY IN CERTAIN CIRCUMSTANCES.

1. A physician or physician's designee who gives orders, either directly or via communications equipment from some other point, to an appropriately certified advanced EMT or paramedic at the scene of an emergency, and an appropriately certified advanced EMT or paramedic following such orders, shall not be subject to criminal liability by reason of having issued or executed such orders, and shall not be liable for civil damages for acts or omissions relating to the issuance or execution of such orders unless such acts or omissions constitute recklessness.

2. A physician, physician's designee, advanced EMT or paramedic shall not be subject to civil liability solely by reason of failure to obtain consent before rendering emergency medical, surgical, hospital or health services to any individual, regardless of age, when the patient is unable to give his or her consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

3. An act of commission or omission of any appropriately certified advanced EMT or paramedic while rendering advanced emergency medical care under the responsible supervision and control of a physician to a person who is deemed by them to be in immediate danger of serious injury or loss of life, shall not impose any liability upon the certified advanced EMT or paramedic, the supervising physician, or any hospital, or upon the state, or any county, city or other political subdivision, or the employees of any of these entities; provided that this section shall not relieve any person of liability for civil damages for any act of commission or omission which constitutes recklessness.

Sec. 11. NEW SECTION. PROHIBITED ACTS.

1. Any person not certified as required by this Act who holds himself or herself out as an advanced EMT or a paramedic, or who uses any other term to indicate or imply that he or she is an advanced EMT or a paramedic, or who acts as an advanced EMT or a paramedic without having obtained the appropriate certificate under this Act, is guilty of a class D felony.

2. Any person who imparts or conveys, or causes to be imparted or conveyed, or attempts to impart or convey false information concerning the need for assistance of an ambulance service or a rescue squad service or of any personnel or equipment thereof, knowing such information to be false, is guilty of a serious misdemeanor.

Approved May 12, 1978

CHAPTER 1075
MORTUARY SCIENCE

S. F. 2131

AN ACT to consolidate the licensing of funeral directors and embalmers.

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

Section 1. Section one hundred fifty-six point one (156.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following new section:

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

1. "Board" shall mean the board of mortuary science examiners.
2. "Funeral director" shall mean a person licensed by the board to practice mortuary science.
3. "Mortuary science" shall mean the engaging in any of the following:
 - a. Preparing, for the burial or disposal, or directing and supervising the burial or disposal of dead human bodies.
 - b. Furnishing any funeral services, or embalming, in connection with the disposition or sale of any casket, vault or other burial receptacle.
 - c. Using the words, "funeral director", "mortician" or any other title implying that he or she is engaged as a funeral director as defined in this section.
 - d. Embalming by disinfecting or preserving dead human bodies, entire or in part, by the use of chemical substances, fluids or gases in the body, or by the introduction of same into the body by vascular or hypodermic injections, or by direct application into the organs or cavities for the purpose of preservation or disinfection.

Nothing contained in this chapter shall be construed as prohibiting the operation of any funeral home or funeral establishment by any person, heir, fiduciary, firm, co-operative burial association or corporation; provided that each such person, firm, co-operative burial association or corporation shall employ a funeral director, and shall keep the state department of health advised of the name of the funeral director.

Sec. 2. Section one hundred fifty-six point two (156.2), subsection two (2), Code 1977, is amended to read as follows:

2. Those who distribute or sell caskets, vaults, or any other burial receptacles and who do not furnish any funeral service or embalming, ~~directly-or-indirectly, by-himself-or in-conjunction-with-another,~~ except a registered student apprentice under the personal direction of a ~~licensed funeral director or-embalmer.~~

Sec. 3. Section one hundred fifty-six point three (156.3), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

156.3 ELIGIBILITY REQUIREMENTS. To be eligible to take the examination for a funeral director's license, a person must have completed two academic years of instruction in a recognized college, junior college or university in a course of study approved by the board or have equivalent education as defined by the board and have satisfactorily completed a course of instruction in mortuary science in an accredited school approved by the board.

Sec. 4. Section one hundred fifty-six point four (156.4), subsections two (2), three (3), four (4) and five (5), Code 1977, are amended to read as follows:

2. ~~No~~ A person shall not engage in ~~or-held-himself-out as-engaged-in,~~ the practice of ~~a-funeral-director~~ mortuary science unless licensed.

3. Applications for the examination for a funeral director's license shall be in writing and verified on a ~~blank to-be-prescribed-and~~ form furnished by the board.

4. Written and oral examinations for a funeral director's license shall be held at least once a year at a time and place to be designated by the board. The examination shall include the subjects of funeral directing, burial or other disposition of dead human bodies, sanitary science, embalming, restorative art, anatomy, public health, transportation, business ethics, and such other subjects as the board may designate ~~and-the laws-of-the-state-of-Iowa-and-rules-relating-to-communicable diseases, quarantine-and-causes-of-death.~~

5. After the applicant shall have completed satisfactorily the course of instruction in mortuary science in an accredited school approved by the board, the applicant must pass the examination prescribed ~~at-one-of-the-regular-examinations held by the board during-the-first-year-after-his-graduation as provided in section one hundred forty-seven point thirty-four (147.34) of the Code.~~ The applicant may then receive a class "A" certificate of studentship apprenticeship and shall then complete a minimum of one additional year of

studentship apprenticeship. The applicant apprentice shall ~~during-this-studentship-direct-or~~ assist in the direction of not less than twenty-five funerals under the direct supervision of a licensed funeral director in-good-standing in-this-state. The apprentice shall arterially embalm not less than twenty-five dead human bodies under the direct supervision of a funeral director. The applicant shall demonstrate proficiency as directed by the board of mortuary science examiners by practical examination.

Sec. 5. Section one hundred fifty-six point eight (156.8), Code 1977, is amended to read as follows:

156.8 STUDENTSHIP APPRENTICESHIP. The board ~~of-funeral director-and-embalmer-examiners~~ shall, by rule ~~approved-by the-state-department-of-health,~~ provide for studentships apprenticeships in funeral directing ~~and-embalming,~~ and shall regulate the registration, ~~and training thereof,-and-no~~ applicant ~~shall-be-eligible-to-take-the-funeral-directors-or-embalmers-examinations-who-has-not-first-been-legally registered-as-a-student,-~~ ~~For-such-registration-a-fee-set by-the-board-to-cover-registration-costs-shall-be-collected from-the-applicant-for-each-license~~ and fee for apprenticeships.

Sec. 6. Section one hundred fifty-six point nine (156.9), Code 1977, is amended to read as follows:

156.9 REVOCATION OF LICENSE. ~~For-the-purpose-of-revoking a-license-under-the-provisions-of-section-447.55,-"un-professional-conduct"-on-the-part~~ The board may revoke or suspend the license of a funeral director ~~or-embalmer-shall in-addition-to-the-provisions-of-said-section-consist-of~~ for any one of the following acts:

1. Knowingly misrepresenting any material matter to a prospective purchaser of funeral merchandise, furnishings, or services.
2. Executing a death certificate or shipping paper for use of anyone except a licensed funeral director or-licensed embalmer or a registered student apprentice who is working under the immediate personal supervision of a licensed funeral director or-licensed-embalmer.
3. ~~Recommending-to-the-board-of-funeral-director-and embalmer-examiners-an-applicant-for-a-license-who-has-not, to-his-personal-knowledge,-complied-with-the-requirements of-the-law-and-the-rules-of-the-board-of-funeral-director and-embalmer-examiners-~~

~~4-~~ If the ~~licensee-shall-engage~~ funeral director engages ~~generally~~ in the business of selling or issuing burial contracts or burial certificates in anticipation of the death of a person, or ~~if-he-shall-enter~~ enters into any contract with another ~~whereby-he-agrees-or-undertakes~~ person to furnish funeral supplies or funeral service to persons who have been solicited by ~~such-other~~ or who have agreed with ~~such-other~~ that person to purchase the ~~same,-provided,-this~~ supplies or services. This subsection shall not apply to contracts with the United States or any department of the federal government, ~~-including-army-and-veterans'-hospitals,~~ or to any contract made in conjunction with the sale of any life insurance policy issued by a life insurance company licensed to transact business in Iowa.

4. Any of the applicable grounds for revocation or suspension of a license provided in Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95) and chapter one hundred forty-seven (147) of the Code.

Sec. 7. Section one hundred fifty-six point twelve (156.12), Code 1977 Supplement, is amended to read as follows:

156.12 FUNERAL DIRECTORS ~~AND-EMBALMERS--~~SOLICITATION OF BUSINESS--PENALTY. Every funeral director ~~or-embalmer,~~ or any person acting ~~for-him-or-her,~~ in their behalf who pays or causes to be paid, ~~directly-or-indirectly,~~ any money or other thing of value as a commission or gratuity for the securing of business for such funeral director ~~or-embalmer,~~ and every person who accepts or offers to accept any money or other thing of value as a commission or gratuity from a funeral director ~~or-embalmer~~ in order to secure business for him or her shall be deemed guilty of a simple misdemeanor, ~~provided-that-nothing-herein-contained.~~ This section shall not be construed as prohibiting any person, firm, co-operative burial association or corporation, subject to the provisions of this chapter, from using legitimate and honest advertising.

Sec. 8. Section one hundred fifty-six point thirteen (156.13), Code 1977, is amended to read as follows:

156.13 CERTIFICATE OF NATIONAL BOARD IN LIEU OF EXAMINATION. The state department of health may, with the approval of the board ~~of-funeral-director-and-embalmer~~ examiners, accept in lieu of the examination prescribed in section 156.4 and section 156.5, a certificate of examination issued by the ~~national-board~~ National Conference of funeral director-and-embalmer-examiners-of-the-United-States-of-America Funeral Service Examining Boards, ~~but~~ and every applicant

for a license upon the basis of such certificate shall be required to pay the fee ~~prescribed-for-licenses-under reciprocal-agreements.~~

Sec. 9. Section one hundred forty-four point twenty-seven (144.27), Code 1977, is amended to read as follows:

144.27 FUNERAL DIRECTOR'S DUTY. The funeral director who first assumes custody of a dead body shall file the death certificate, ~~He shall~~, obtain the personal data from the next of kin or the best qualified person or source available and ~~shall~~ obtain the medical certification of cause of death from the person responsible for issuing and signing the certification. When a person other than a funeral director assumes custody of a dead body, the person shall be responsible for carrying out the provisions of this section.

Sec. 10. Section one hundred forty-four point thirty-four (144.34), Code 1977, is amended to read as follows:

144.34 DISINTERMENT--PERMIT. Disinterment of a dead body or fetus shall be allowed for the purpose of autopsy or reburial only, and then only if accomplished by a ~~licensed~~ funeral director ~~or-embalmer~~. A permit for such disinterment and, thereafter, reinterment shall be issued by the state registrar according to rules adopted pursuant to chapter 17A or when ordered by the district court of the county in which such body is buried. The state registrar, without a court order, shall not issue a permit without the consent of the surviving spouse or in case of such spouse's absence, death, or incapacity, the next of kin. Disinterment for the purpose of reburial may be allowed by court order only upon a showing of substantial benefit to the public. Disinterment for the purpose of autopsy or reburial by court order shall be allowed only when reasonable cause is shown that someone is criminally or civilly responsible for such death, after hearing, upon reasonable notice prescribed by the court to the surviving spouse or in his or her absence, death, or incapacity, the next of kin. Due consideration shall be given to the public health, the dead, and the feelings of relatives.

Sec. 11. Section one hundred forty-four point forty-nine (144.49), Code 1977, is amended to read as follows:

144.49 ADDITIONAL RECORD BY FUNERAL DIRECTOR. A funeral director, ~~embalmer~~, or other person who removes from the place of death or transports or finally disposes of a dead body or fetus, in addition to filing any certificate or other form required by this chapter, shall keep a record which shall identify the body, and information pertaining to his or her

receipt, removal, and delivery of the body as prescribed by the department.

Sec. 12. Section one hundred forty-seven point one (147.1), subsections two (2) and three (3), Code 1977, are amended to read as follows:

2. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, practitioner of cosmetology, practitioner of barbering, or funeral director ~~or-embalmer~~ shall mean a person licensed under this title.

3. "Profession" shall mean medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, cosmetology, barbering, ~~funeral-directing-or-embalming~~ or mortuary science.

Sec. 13. Section one hundred forty-seven point two (147.2), Code 1977, is amended to read as follows:

147.2 LICENSE REQUIRED. No person shall engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, cosmetology, barbering, ~~funeral-directing-or-embalming~~ or mortuary science as defined in the following chapters of this title, unless he or she shall have obtained from the state department of health a license for that purpose.

Sec. 14. Section one hundred forty-seven point three (147.3), Code 1977, is amended to read as follows:

147.3 QUALIFICATIONS. An applicant for a license to practice a profession under this title shall not be ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. Any board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of medicine, podiatry, osteopathy, osteopathy and surgery, chiropractic, nursing, psychology, optometry, speech pathology, audiology, pharmacy, physical therapy, cosmetology, barbering or ~~funeral directing-or-embalming~~ mortuary science for which the applicant requests to be licensed. Character references may be required,

but shall not be obtained from licensed members of the profession.

Sec. 15. Section one hundred forty-seven point thirteen (147.13), Code 1977, is amended to read as follows:

147.13 DESIGNATION OF BOARDS. The examining boards provided in section 147.12 shall be designated as follows: For medicine and surgery, and osteopathy, and osteopathic medicine and surgery, medical examiners; for psychology, psychology examiners; for podiatry, podiatry examiners; for chiropractic, chiropractic examiners; for physical therapists, physical therapy examiners; for nursing, board of nursing; for dentistry and dental hygiene, dental examiners; for optometry, optometry examiners; for speech pathology and audiology, speech pathology and audiology examiners; for cosmetology, cosmetology examiners; for barbering, barber examiners; for pharmacy, pharmacy examiners; for ~~funeral directing and embalming, funeral director and embalmer~~ mortuary science, mortuary science examiners.

Sec. 16. Section one hundred forty-seven point fourteen (147.14), subsection one (1), Code 1977, is amended to read as follows:

1. For podiatry, physical therapy, cosmetology, barbering, and ~~funeral directing and embalming~~ mortuary science, three members each, licensed to practice the profession for which the board conducts examinations, and two members who are not licensed to practice the profession for which the board conducts examinations and who shall represent the general public. A quorum shall consist of a majority of the members of the board.

Sec. 17. Section one hundred forty-seven point eighty (147.80), subsection ten (10), Code 1977, is amended to read as follows:

10. License to practice ~~funeral directing and embalming~~ mortuary science issued upon the basis of an examination given by the board of ~~funeral directing and embalming~~ mortuary science examiners, license to practice ~~funeral directing and embalming~~ mortuary science issued under a reciprocal agreement, renewal of a license to practice ~~funeral directing, renewal of a license to practice embalming~~ mortuary science.

Sec. 18. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section one (1), subsection one (1), paragraph 1, is amended to read as follows:

1. The board of ~~funeral directors and embalmer~~ mortuary science examiners, created pursuant to chapter one hundred

forty-seven (147) of the Code.

Sec. 19. Sections one hundred fifty-six point five (156.5), one hundred fifty-six point six (156.6), one hundred fifty-six point seven (156.7), and one hundred fifty-six point eleven (156.11), Code 1977, are repealed.

Sec. 20. All persons who hold both a funeral director's license and an embalmer's license under chapter one hundred fifty-six (156) of the Code on the effective date of this Act shall be issued a funeral director's license by the board of mortuary science. A person who holds either a funeral director's license or an embalmer's license on the effective date of this Act shall be issued a funeral director's license by the board of mortuary science, but the practice permitted by that license shall be limited to funeral directing or embalming respectively as defined in section one hundred fifty-six point one (156.1) of the Code prior to the effective date of this Act and permitted by the previous license held by the funeral director or embalmer. The members of the board of funeral directors and embalmers shall serve as members of the board of mortuary science until the expirations of their terms. The rules of the board of funeral directors and embalmers shall remain in effect as rules of the board of mortuary science until changed by that board.

Approved May 15, 1978

CHAPTER 1076

PROBING GRAIN FOR FOREIGN MATERIAL

S. F. 2176

AN ACT relating to the probing of grain for foreign material content.

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

Section 1. Section one hundred fifty-nine point five (159.5), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Approve all methods of probing for foreign material content of any type of grain.

Approved June 2, 1978

CHAPTER 1077

VETERINARIANS

S. F. 358

AN ACT relating to the licensing and practicing of veterinarians.

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

Section 1. NEW SECTION. TITLE. This Act shall be known as the "Iowa Veterinary Practice Act".

Sec. 2. NEW SECTION. LEGISLATIVE PURPOSE. This Act is enacted as an exercise of the police powers of the state to promote the public health, safety, and welfare by safeguarding the people of this state against incompetent, dishonest, or unprincipled practitioners of veterinary medicine. It is declared that the right to practice veterinary medicine is a privilege conferred by legislative grant to persons possessed of the personal and professional qualifications specified in this Act. This chapter shall be liberally construed to effect the legislative purpose.

Sec. 3. NEW SECTION. DEFINITIONS. When used in this Act:

1. "Animal" means any nonhuman primate, dog, cat, rabbit, rodent, fish, reptile, and other vertebrate or nonvertebrate life forms, living or dead, except domestic poultry.

2. "Veterinary medicine" includes veterinary surgery, veterinary obstetrics, veterinary dentistry, and all other branches or specialities of veterinary medicine.

3. "Practice of veterinary medicine" means any of the following:

a. To diagnose, treat, correct, change, relieve or prevent, for a fee, any animal disease, deformity, defect, injury or other physical or mental conditions or cosmetic surgery; including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, for a fee; or to evaluate or correct sterility or infertility, for a fee; or to render, advise or recommend with regard to any of the above for a fee.

b. To represent, directly or indirectly, publicly or privately, an ability or willingness to do an act described in paragraph a of subsection three (3) of this section.

c. To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraph a of subsection three (3) of this section.

4. "Veterinarian" means a person who has received a doctor of veterinary medicine degree or its equivalent from an accredited or approved college of veterinary medicine.

5. "Licensed veterinarian" means a person who is validly and currently licensed to practice veterinary medicine in the state of Iowa.

6. "Accredited or approved college of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and that conforms to the standards required for accreditation or approval by the board.

7. "Board" means the Iowa board of veterinary medicine.

8. "ECFVG certificate" means a current certificate issued by the American veterinary medical association educational commission for foreign veterinary graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine.

9. "Person" means natural person or individual.

10. "Fee" means monetary compensation given for a service consisting primarily of an act or acts described in paragraph a of subsection three (3) of this section.

11. "Accepted livestock management practice" includes but is not limited to: dehorning, castration, docking, vaccination, pregnancy testing, clipping swine needle teeth, ear notching, drawing of blood, relief of bloat, draining of abscesses, branding, and other surgical acts of no greater magnitude; artificial insemination, collecting of semen, implanting of growth hormones, feeding commercial feed defined in section one hundred ninety-eight point three (198.3) of the Code, or administration or prescription of drugs performed by the owner or contract-feeder thereof of livestock, his or her bona fide employee, or anyone rendering gratuitous assistance with respect to such livestock. Nothing contained herein shall be construed to permit any person except those persons enumerated in this subsection, to provide purportedly gratuitous assistance with regard to the treatment of animals other than advisory assistance, in return for the purchase of goods or services.

12. "Owner" means any person, association, partnership,

corporation, or other legal entity in whom is vested the ownership, dominion over, or title to an animal, including one who is obligated by law to care for such animal.

Sec. 4. NEW SECTION. LICENSE REQUIREMENT AND EXCEPTIONS.

A person may not practice veterinary medicine in the state who is not a licensed veterinarian or the holder of a valid temporary permit issued by the board. This chapter shall not be construed to prohibit:

1. An employee of the federal, state, or local government from performing official duties.

2. A person who is a veterinary student in an accredited or approved college of veterinary medicine from performing duties or actions assigned by instructors, or working under the direct supervision of a licensed veterinarian. The secretary of agriculture shall issue to any veterinary medicine student who attends an accredited veterinary medicine college or school and who has been certified as being competent by an instructor of such college or school to perform veterinary duties under the direction of an instructor of veterinary medicine or under the direct supervision of a licensed veterinarian, a certificate authorizing the veterinary medicine student to perform such functions.

3. A veterinarian currently licensed in another state from consulting with a licensed veterinarian in this state.

4. Any manufacturer, wholesaler, or retailer from advising with respect to or selling in the ordinary course of trade or business, drugs, feeds, including, but not limited to customer-formula feeds as defined in section one hundred ninety-eight point three (198.3) of the Code, appliances, and other products used in the prevention or treatment of animal diseases.

5. The owner of an animal or the owner's bona fide employees from caring for and treating the animal in the possession of such owner except where the ownership of the animal was transferred solely for the purpose of circumventing this Act.

6. A member of the faculty of an accredited college of veterinary medicine from performing functions in the classrooms or continuing education. However, those faculty members who have professional responsibility to the owner must be licensed. A temporary permit may be granted for a period not to exceed two years to interns or residents who are on the staff of the college of veterinary medicine of Iowa state university of science and technology. Such permit shall be

renewable annually upon the application of the dean of the college of veterinary medicine.

7. Any person from manufacturing, selling, offering for sale, or applying any pesticide, insecticide, or herbicide.

8. Any person from engaging in bona fide scientific research which reasonably requires experimentation involving animals.

9. Any veterinary lay assistant employed by a licensed veterinarian from performing duties other than diagnosis, prescription, or surgery under the direct supervision of such veterinarian which assistant has been issued a certificate by the secretary of agriculture after a proper showing of competency.

10. A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate for performing duties or actions under the direction or supervision of a licensed veterinarian.

11. Any person from advising with respect to or performing accepted livestock management practices.

12. Any person from engaging in the full-time study of the improvement of the quality of livestock.

13. Any person from performing post-mortem examinations on swine or cattle.

14. Any person from collecting or evaluating semen from livestock or poultry, or artificial insemination of livestock and poultry.

15. Any person from castrating, dehorning or branding notwithstanding section one hundred eighty-seven point fourteen (187.14), Code 1977 Supplement.

Sec. 5. NEW SECTION. BOARD OF VETERINARY MEDICINE.

1. For the purpose of administering examinations to applicants for license to practice veterinary medicine and performing such other duties, functions and responsibilities as are outlined in this Act, the governor shall appoint, subject to the approval of two-thirds of the members of the senate, a board of five individuals, three of whom shall be licensed veterinarians and two of whom shall not be licensed veterinarians, but shall be knowledgeable in the area of animal husbandry and who shall represent the general public. The representatives of the general public shall not prepare, grade or otherwise administer examinations to applicants for license to practice veterinary medicine. Such board shall be known as the Iowa board of veterinary medicine. Each licensed veterinarian shall be actively engaged in veterinary

medicine and shall have been so engaged for a period of five years immediately preceding appointment, the last two of which shall have been in Iowa. A member of the board shall not be employed by any wholesale or jobbing house dealing in supplies, equipment or instruments used or useful in the practice of veterinary medicine. The person designated as the state veterinarian shall serve as secretary of the board.

Professional associations or societies composed of licensed veterinarians may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations.

2. The members of the board shall be appointed for a term of three years except that the terms of the members of the initial board shall be rotated in such a manner that at least one member shall retire each year and a successor appointed. The term of each member shall commence on July first following appointment. Members shall serve no more than three terms or nine years total, whichever is less.

3. Any vacancy in the membership of the board caused by death, resignation, removal, or otherwise, shall be filled for the period of the unexpired term in the same manner as original appointments.

4. Members of the board shall, in addition to necessary traveling and other expenses, set their own per diem compensation at a rate not exceeding forty dollars per day for each day actually engaged in the discharge of their duties including compensation for the time spent traveling to and from the place of conducting the examination and for a reasonable number of days for the preparation of examination and the reading of papers, in addition to the time actually spent in conducting examinations, within the limits of funds appropriated to the board.

5. The department of agriculture shall furnish the board with all articles and supplies required for the public use and necessary to enable the board to perform the duties imposed upon it by law. Such articles and supplies shall be obtained by the department in the same manner in which the regular supplies for the department are obtained, and the department shall assess the costs to the board for such articles and supplies. The board shall also reimburse the department for direct and indirect administrative costs incurred in issuing and renewing the licenses.

6. The board shall meet at least once each year as deter-

mined by the board. Other necessary meetings may be called by the president of the board by giving proper notice. Except as provided, a majority of the board constitutes a quorum. Meetings shall be open and public except that the board may meet in closed session to prepare, approve, administer, or grade examinations, or to deliberate the qualifications of an applicant for license or the disposition of a proceeding to discipline a licensed veterinarian.

7. At its annual meeting, the board shall organize by electing a president and such other officers as may be necessary. Officers of the board serve for terms of one year and until a successor is elected, without limitation on the number of terms an officer may serve. The president shall serve as chairperson of board meetings.

The duties of the secretary shall include carrying on the correspondence of the board, keeping permanent accounts and records of all receipts and disbursements by the board and of all board proceedings, including the disposition of all applications for license, and keeping a register of all persons currently licensed by the board. All board records shall be open to public inspection during regular office hours.

At the end of each fiscal year, the president and secretary shall submit to the governor a report on the transactions of the board, including an account of moneys received and disbursed.

8. The board shall set the fees by rule for a license to practice veterinary medicine issued upon the basis of the examination. It shall also set the fees by rule for a license granted on the basis of reciprocity, a renewal of a license to practice veterinary medicine, a certified statement that a licensee is licensed to practice in this state, and an issuance of a duplicate license when the original is lost or destroyed. The fee shall be based upon the administrative costs of sustaining the board and shall include, but shall not be limited to, the following:

- a. Per diem, expenses, and travel of board members.
- b. Costs to the department of agriculture for administration of this Act.

9. Upon a two-thirds vote with the secretary of agriculture sitting as a voting board member for these purposes, the board may:

- a. Examine and determine the qualifications and fitness of applicants for a license to practice veterinary medicine in the state.

b. Issue, renew, or deny issuance or renewal of licenses and temporary permits to practice veterinary medicine in this state.

c. Establish and publish annually a schedule of fees for licensing and registration of veterinarians. The fee schedule shall be based on the board's anticipated financial requirements for the year.

d. Conduct investigations for the purpose of discovering violations of this Act or grounds for disciplining licensed veterinarians.

e. Hold hearings on all matters properly brought before the board and administer oaths, receive evidence, make the necessary determinations, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. An administrative hearing officer may be appointed pursuant to subsection three (3) of section seventeen A point eleven (17A.11) of the Code to perform those functions which properly repose in an administrative hearing officer.

f. Employ full-time or part-time personnel, professional, clerical, or special, as are necessary to effectuate the provisions of this Act.

g. Appoint from its own membership one or more members to act as representatives of the board at any meeting within or without the state where such representation is deemed desirable.

h. Through the offices of the secretary of agriculture and the attorney general, bring proceedings in the courts for the enforcement of this Act or any regulations made pursuant to this Act.

i. Adopt, amend, or repeal rules relating to the standards of conduct for, testing of, and revocation or suspension of certificates issued to veterinary lay assistants; providing that no certificate can be suspended or revoked by less than two-thirds vote of the entire board in a proceeding conducted in compliance with section seventeen A point twelve (17A.12) of the Code.

j. Adopt, amend, or repeal all rules necessary for its government and all regulations necessary to carry into effect the provision of this Act, including the establishment and publication of standards of professional conduct for the practice of veterinary medicine.

The powers enumerated above are granted for the purpose

of enabling the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

Sec. 6. NEW SECTION. DISCLOSURE OF CONFIDENTIAL INFORMATION. A member of the board shall not disclose information relating to the following:

1. Criminal history or prior misconduct of the applicant.
2. Information relating to the contents of the examination.
3. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor for each separate offense.

Sec. 7. NEW SECTION. STATUS OF PERSONS PREVIOUSLY LICENSED. Any person holding a valid license to practice veterinary medicine in this state on the effective date of this Act shall be recognized as a licensed veterinarian and shall be entitled to retain this status as long as licensee complies with the provisions of this Act.

Sec. 8. NEW SECTION. QUALIFICATIONS. Any person desiring a license to practice veterinary medicine in this state shall make written application to the board on a form approved by the board. The application shall show that the applicant is a graduate of an accredited or approved college of veterinary medicine or the holder of an ECFVG certificate. The application shall also show such other information and proof as the board may require by rule. The application shall be accompanied by a fee in the amount established and published by the board.

If the board determines that the applicant possesses the proper qualifications, it shall admit the applicant to the next examination, or if the applicant is eligible for license without examination under section ten (10) of this Act, the board may grant a license to the applicant. If an applicant is found not qualified to take the examination or for a license without examination, the secretary of the board shall immediately notify the applicant in writing of such finding and the grounds therefor. An applicant found unqualified may request a hearing on the question of his or her qualification under the procedure set forth in section fourteen (14) of this Act. Any applicant who is found not qualified

shall be allowed the return of the application fee.

Every license to practice veterinary medicine shall be in the form of a certificate under the seal of the department of agriculture and signed by the secretary of agriculture. The number of the book and page containing the entry of the license in the office of the department of agriculture shall be noted on the face of the license.

Every individual licensed under this Act shall keep the license displayed in the place at which an office is maintained.

The name, location, number of years of practice of the person to whom a license is issued, the number of the certificate, and the date of registration thereof shall be entered in a book kept in the office of the department of agriculture, to be known as the "registry book", and the same shall be open to public inspection.

When any person licensed to practice under this Act changes residence, the department of agriculture shall be notified within thirty days and such change shall be noted in the registry book.

Sec. 9. NEW SECTION. EXAMINATIONS. The board shall hold at least one examination during each year and may hold such additional examinations as it deems necessary. The secretary shall give public notice of the time and place for each examination at least ninety days in advance of the date set for the examination. A person desiring to take an examination shall make application at least thirty days before the date of the examination.

The preparation, administration, and grading of examinations shall be governed by rules prescribed by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to establish competency to practice veterinary medicine in the judgment of the board. All examinees shall be tested by a written examination, supplemented by such oral interviews and practical demonstrations as the board may deem necessary. The board may adopt and use the examination prepared by the national board of veterinary examiners as a part of the examination given to examinees.

After each examination, the secretary shall notify each examinee of the examination result, and the board shall issue licenses to the individuals successfully completing the ex-

amination. The secretary shall record the new licenses and issue a certificate of registration to the new licensees. Any individual failing an examination shall be admitted to any subsequent examination on payment of the application fee.

In all written examinations the identity of the individual taking the same shall not be disclosed upon the examination papers in such a way as to enable the members of the examining board to know by whom written until after the papers have been passed upon.

Sec. 10. NEW SECTION. LICENSE WITHOUT EXAMINATION. For the purpose of recognizing licenses to practice veterinary medicine which have been issued in other states, the department of agriculture, upon recommendation of the board, may by rule establish reciprocal relations with the duly constituted and proper authorities of such other states.

When the laws of such other states or the rules of such authorities place any requirement or disability upon a person licensed under this Act or on any person holding a degree in veterinary medicine from the state university of science and technology of this state which affects the rights of the persons to be licensed or to practice in the other states, then the same requirement or disability shall be placed upon any person licensed in the other state or holding a diploma from any veterinary college situated therein, when applying for a license to practice in this state.

After reciprocal relations are entered into, the department may, in lieu of a written examination, issue a license to practice veterinary medicine on the basis of a certificate of registration or license issued by the duly constituted and proper authorities of another state with which such reciprocal relations exist, if such certificate of registration or license has been issued by such other state on requirements substantially equivalent to those required in this state at the time of the issuance of such certificate of registration or license.

When the requirements for a license in any state with which this state has a reciprocal agreement are no longer equal to those existing in this state, then such agreement shall be terminated and licenses issued in such state shall not be recognized as a basis for granting a license in this state until a new agreement has been negotiated. The fact of such change shall be determined by the board and certified to the department of agriculture.

Sec. 11. NEW SECTION. TEMPORARY PERMIT. The board may

issue without examination a temporary permit to practice veterinary medicine in this state:

1. To a qualified applicant for license pending examination and the temporary permit shall expire the day after the notice of results of the first examination given after the permit is issued. The temporary permit holder should keep the secretary continually advised of his or her current address.

2. To a nonresident veterinarian validly licensed in another state, territory, or district of the United States or a foreign country who pays the fee established and published by the board. Such temporary permit shall be issued for a period of no more than one hundred eighty days and no more than one permit shall be issued to a person during each calendar year.

Sec. 12. NEW SECTION. LICENSE RENEWAL. All licenses shall expire annually on June thirtieth but may be renewed by registration with the board and payment of the registration renewal fee established and published by the board. On or before June first of each year, the secretary shall mail a notice to each licensed veterinarian that the license will expire on June thirtieth and shall provide the licensee with a form for registration.

Any person who shall practice veterinary medicine after license expiration is practicing in violation of this Act. However, a person may renew an expired license within five years of the date of its expiration by making written application for renewal and paying the current renewal fee plus all delinquent renewal fees. After five years have elapsed since the date of expiration, a license may not be renewed, and the holder must make application for a new license and take the license examination.

The board may by rule waive the payment of the registration renewal fee of a licensed veterinarian during the period when the veterinarian is on active duty with any branch of the armed services of the United States.

Any licensee who is desirous of changing residence to another state or territory shall, upon application to the department of agriculture and payment of the legal fee, receive a certified statement that the licensee is a duly licensed practitioner in this state.

Sec. 13. NEW SECTION. DISCIPLINE OF LICENSEES. A license or temporary permit issued under this chapter may be revoked or suspended or the licensee or permittee may be otherwise disciplined by the board upon a two-thirds vote of the entire

board, with the secretary of agriculture sitting as a voting board member for this purpose. Such an action may be taken when the licensee is found guilty of any of the following acts or offenses:

1. The employment of fraud, misrepresentation, or deception in obtaining a license or in the subsequent practice of the profession.
2. A determination of legal insanity.
3. Illegal use or distribution of controlled substances in the practice of veterinary medicine.
4. The use of advertising or solicitation which is false, misleading, or is otherwise deemed unprofessional under regulations adopted by the board.
5. Conviction of a felony.
6. Incompetence, negligence, or other malpractice in the practice of veterinary medicine.
7. Having professional association with or employing any person unlawfully practicing veterinary medicine.
8. Fraud or willful or wanton negligence in the application or reporting of any test for disease in animals.
9. Failure to keep veterinary premises and equipment in a clean and sanitary condition.
10. Failure to report, as required by law, or making false report of, any contagious or infectious disease.
11. False or negligent reporting in the inspection of foodstuffs or the issuance of health or inspection certificates.
12. Conviction of cruelty to animals.
13. Revocation of a license to practice veterinary medicine by another state, territory, or district of the United States on grounds other than nonpayment of registration fee.
14. Unprofessional conduct as defined in regulations adopted by the board.

Sec. 14. NEW SECTION. HEARING PROCEDURE. The attorney general may, on his or her own motion, or when directed by the department of agriculture shall, issue a petition against any licensee to whom has been granted a license to practice veterinary medicine. The attorney general shall prosecute said action before the secretary of agriculture and the board of veterinary medicine. At said hearing the secretary of agriculture shall act as chairperson.

A hearing shall be held no sooner than twenty days after written notice to a licensed veterinarian of a complaint under section thirteen (13) of this Act or, in the case of a person

whose application for license is denied, no sooner than ten days after receipt by the board of a written request for a hearing. Notice of the time and place of the hearing, along with a copy of the complaint filed, shall be served on a licensee in the same manner required by the Iowa rules of civil procedure.

The applicant or licensee shall have the right to be heard in person and by counsel, the right to have subpoenaed the attendance of witnesses in his or her behalf, and the right to cross-examine witnesses appearing against the applicant or licensee. Strict rules of evidence shall not apply. The board shall either use mechanical means or employ a certified shorthand reporter to perpetuate the testimony and shall preserve a full record of the proceedings. A transcript of the record may be purchased by any person interested in such hearing on payment to the board of the cost of preparing the transcript.

The board shall notify the applicant or licensee of its decision in writing within ten days after the conclusion of the hearing. The secretary in all cases of suspension or revocation shall enter the fact on the register. Any individual whose license is suspended or revoked shall be deemed an unlicensed person for purposes of this Act.

The fees and expenses allowed witnesses and officers shall be paid by the board and shall be the same as prescribed by law in civil cases in the courts of this state.

Sec. 15. NEW SECTION. APPEAL. Any party aggrieved by a decision of the board may appeal the matter to the district court within thirty days after receipt of notice of the board's final determination. Appeals shall be taken by filing the action with the court and serving upon the secretary of the board written notice of the appeal, stating the grounds thereof. The attorney general shall represent the board and the secretary of agriculture in any such court proceedings.

Sec. 16. NEW SECTION. REINSTATEMENT. Any person whose license is suspended or revoked may at the discretion of the board, be relicensed or reinstated at any time without an examination by majority vote of the board on written application made to the board showing cause justifying relicensing or reinstatement.

Sec. 17. NEW SECTION. FORGERIES. Any person who shall file or attempt to file with the department of agriculture or board of veterinary medicine any false or forged diploma or certificate or affidavit of identification or qualification

is guilty of a fraudulent practice.

Sec. 18. NEW SECTION. FRAUD. Any person who shall present to the department of agriculture or board of veterinary medicine a diploma or certificate of which he or she is not the rightful owner, for the purpose of procuring a license, or who shall falsely impersonate anyone to whom a license has been granted by said department, is guilty of a fraudulent practice.

Sec. 19. NEW SECTION. ENFORCEMENT--PENALTIES.

1. Any person who practices veterinary medicine without a currently valid license or temporary permit is guilty of a fraudulent practice. Each act of such unlawful practice shall constitute a distinct and separate offense.

2. A person who shall practice veterinary medicine without a currently valid license or temporary permit shall not receive any compensation for services so rendered.

3. The county attorney of the county in which any violation of this Act occurs shall conduct the necessary prosecution for such violation. Notwithstanding this provision, the board of veterinary medicine or the secretary of agriculture, or any citizen of this state may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license or temporary permit. The action brought to restrain a person from engaging in the practice of veterinary medicine without possessing a license shall be brought in the name of the state of Iowa. If the court finds that the individual is violating or threatening to violate this Act, it shall enter an injunction restraining the individual from such unlawful acts.

4. The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other remedy set forth in this section.

5. The department of agriculture shall cooperate with the board of veterinary medicine in the enforcement of the provisions of this Act.

Sec. 20. Chapter one hundred sixty-nine (169), Code 1977, is repealed and the provisions of this Act substituted in lieu thereof.

Sec. 21. This Act is effective January 1, 1979.

Approved June 29, 1978

CHAPTER 1078

FOOD SERVICE SANITATION AND HOTEL SANITATION

S. F. 365

AN ACT relating to food service establishments, food establishments, food and beverage vending machines, and hotels, and providing penalties.

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

Section 1. NEW SECTION. SHORT TITLE. Sections one (1) through fifteen (15) of this Act shall be known as the Iowa food service sanitation code and shall appear as a separate chapter in the Code.

Sec. 2. NEW SECTION. DEFINITIONS. For purposes of the Iowa food service sanitation code, unless a different meaning is clearly indicated by the context:

1. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored.

2. "Secretary" means the secretary of agriculture.

3. "Department" means the department of agriculture.

4. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

5. "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare sandwiches intended for individual portion service and food service operations in schools and summer camps. The term does not include private homes where food is prepared or stored for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles. The term does not include child day care facilities, food service facilities subject to inspection by other agencies of the state and located in nursing homes, health care facilities, or hospitals.

6. "Local board of health" means a county, city, or district board of health.

7. "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.

8. "Municipal corporation" means a political subdivision of this state.

9. "Pushcart" means a non-self propelled vehicle limited to serving non-potentially hazardous foods, commissary wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

10. "Regulatory authority" means the state department of agriculture or local board of health that has entered into an agreement with the secretary of agriculture pursuant to section four (4) of this Act for authority to enforce the Iowa food service sanitation code in its jurisdiction.

11. "Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than twelve consecutive days in conjunction with a single event or celebration.

12. "Food service sanitation ordinance" means the 1976 edition of the federal food and drug administration food service sanitation ordinance. Copies of the food service sanitation ordinance shall be on file in the department.

Sec. 3. NEW SECTION. ADOPTION BY RULE. As soon as practicable, the secretary shall adopt the food service sanitation ordinance by rule as part of the Iowa food service sanitation code with the following exceptions:

1. 1-102 (h), (i), and (z) shall be deleted.
2. 1-104 shall be deleted.
3. 10-101 shall be amended so that the following food service establishments are exempt from the license requirement:
 - a. Food service operations in schools.
 - b. Places used by churches, fraternal societies, and civic organizations which engage in the serving of food not more often than ten times per month.

10-101 shall also be amended so that a license issued by the department of agriculture prior to the effective date of this Act shall be valid until its expiration date.

4. 10-201 shall be amended so that food service operations in schools and summer camps shall be inspected at least once every year instead of twice every year.

5. 10-601 shall be deleted.

Sec. 4. NEW SECTION. AUTHORITY TO ENFORCE THE IOWA FOOD SERVICE SANITATION CODE. The secretary has sole and exclusive authority to regulate, license, and inspect food service establishments and to enforce the Iowa food service sanitation code in Iowa. Municipal corporations shall not regulate, license, inspect, or collect license fees from food service

establishments except as provided for in the Iowa food service sanitation code.

If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa food service sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa food service sanitation code if it also agrees to enforce the Iowa hotel sanitation code pursuant to section eighteen (18) of this Act and to enforce the food and beverage vending machine laws pursuant to section sixty-one (61) of this Act. To avoid duplication of inspection, the department, not a local board of health, shall inspect a food service establishment located within a food establishment.

If the secretary enters into an agreement with a municipal corporation as provided by this section, the secretary shall cause the inspection practices of a municipal corporation to be spot checked on a regular basis.

Each local board of health that is responsible for enforcing the Iowa food service sanitation code within its jurisdiction pursuant to an agreement shall make an annual report to the secretary providing the following information:

1. The total number of food service establishment licenses granted or renewed during the year.
2. The number of food service establishment licenses granted or renewed during the year broken down into the following categories:
 - a. Mobile food units and pushcarts.
 - b. Temporary food service establishments.
 - c. Food service establishments with annual gross sales of under fifty thousand dollars other than mobile food units, pushcarts, or temporary food service establishments.
 - d. Food service establishments with annual gross sales of between fifty thousand and one hundred thousand dollars other than mobile food units, pushcarts, or temporary food service establishments.
 - e. Food service establishments with annual gross sales of more than one hundred thousand but less than two hundred fifty thousand dollars other than mobile food units, pushcarts, or temporary food service establishments.

f. Food service establishments with annual gross sales of two hundred fifty thousand dollars or more other than mobile food units, pushcarts, or temporary food service establishments.

3. The amount of money collected in license fees during the year.

4. Other information the secretary requests.

The secretary shall monitor local boards of health to determine if they are enforcing the Iowa food service sanitation code within their respective jurisdictions. If the secretary determines that the Iowa food service sanitation code is enforced by a local board of health, such enforcement shall be accepted in lieu of enforcement by the department in that jurisdiction. If the secretary determines that the Iowa food service sanitation code is not enforced by a local board of health, the secretary may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the secretary shall assume responsibility for enforcement in the jurisdiction involved.

Sec. 5. NEW SECTION. LICENSE FEES. Either the department or the municipal corporation shall collect the following annual license fees:

1. For a mobile food unit or pushcart, ten dollars.
2. For a temporary food service establishment per fixed location, ten dollars.
3. For a food service establishment with annual gross sales of under fifty thousand dollars other than a mobile food unit, pushcart, or temporary food service establishment, forty dollars.
4. For a food service establishment with annual gross sales of between fifty thousand and one hundred thousand dollars other than a mobile food unit, pushcart, or temporary food service establishment, seventy dollars.
5. For a food service establishment with annual gross sales of more than one hundred thousand but less than two hundred fifty thousand dollars other than a mobile food unit, pushcart, or temporary food service establishment, one hundred twenty-five dollars.
6. For a food service establishment with annual gross sales of two hundred fifty thousand dollars or more, one hundred fifty dollars.

Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by it and for its use.

Sec. 6. NEW SECTION. LICENSE EXPIRATION AND RENEWAL. Each license shall expire one year from date of issue. A license is renewable. All licenses issued under the Iowa food service sanitation code that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee if the license is renewed at a later date.

Sec. 7. NEW SECTION. TOILET AND LAVATORY FACILITIES. A food service establishment that is not a mobile food unit, pushcart, or temporary food service establishment shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to chapter seventeen A (17A) of the Code.

Sec. 8. NEW SECTION. PLUMBING IN FOOD SERVICE ESTABLISHMENTS. A food service establishment shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The water supply service and sewerage system of a food service establishment shall meet the technical requirements of the local board of health, the department of health, and the department of environmental quality.

Sec. 9. NEW SECTION. FIRE PROTECTION REGULATIONS. The state fire marshal shall adopt, amend, promulgate, and enforce standards relating to fire protection and fire safety in food service establishments in accordance with chapter seventeen A (17A) of the Code.

Sec. 10. NEW SECTION. INSPECTION UPON COMPLAINT. Upon receipt of a verified complaint signed by a customer of a food service establishment and stating facts indicating the place is in an insanitary condition, the regulatory authority may conduct an inspection.

Sec. 11. NEW SECTION. POSTING INSPECTION NOTICE. Immediately after an inspection of a food service establishment is conducted by the regulatory authority, the licensee or person in charge shall post, in a conspicuous place easily accessible to the public, a notice stating the date of the inspection and the name of the inspector who conducted the inspection. This notice shall remain so posted until it is replaced after the next inspection. The regulatory authority shall provide these inspection notices after each inspection.

Sec. 12. NEW SECTION. POSTING "POOR" INSPECTION RESULTS. If a food service establishment receives two consecutive inspection ratings of under 76, the numerical rating along with the designation of "poor" shall be posted by the licensee

or person in charge along with the inspection notice provided for in section eleven (11) of this Act. The rating and "poor" designation shall remain posted until a rating above 75 is received at a subsequent inspection. When a food service establishment receives a "poor" rating, the inspector shall advise the licensee, or person in charge, of the posting requirement set forth in this section.

Sec. 13. NEW SECTION. PENALTY. A person who violates a provision of the Iowa food service sanitation code shall be guilty of a simple misdemeanor. Each day upon which such a violation occurs constitutes a separate violation.

Sec. 14. NEW SECTION. DUTY OF COUNTY ATTORNEY. The county attorney in each county shall assist in the enforcement of the Iowa food service sanitation code.

Sec. 15. NEW SECTION. CONFLICTING STATUTES. Provisions of the Iowa food service sanitation code in conflict with the state building code shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

Sec. 16. NEW SECTION. SHORT TITLE. Sections sixteen (16) through thirty-four (34) of this Act shall be known as the Iowa hotel sanitation code and shall appear as a separate chapter in the Code.

Sec. 17. NEW SECTION. DEFINITIONS. For purposes of the Iowa hotel sanitation code, unless a different meaning is clearly indicated by the context:

1. "Secretary" means the secretary of agriculture.
2. "Department" means the department of agriculture.
3. "Guest room" shall mean any bedroom or other sleeping quarters for transient guests in a hotel.
4. "Hotel" shall mean any building or structure, equipped, used, advertised as, or held out to the public to be an inn, hotel, motel, motor inn, or place where sleeping accommodations are furnished transient guests for hire.
5. "Local board of health" means a county, city, or district board of health.
6. "Municipal corporation" means a political subdivision of this state.
7. "Regulatory authority" means the state department of agriculture or local board of health that has entered into an agreement with the secretary pursuant to section eighteen (18) of this Act for authority to enforce the Iowa hotel sanitation code in its jurisdiction.

Sec. 18. NEW SECTION. AUTHORITY TO ENFORCE THE IOWA HOTEL

SANITATION CODE. The secretary has sole and exclusive authority to regulate, license, and inspect hotels and to enforce the Iowa hotel sanitation code in Iowa. Municipal corporations shall not regulate, license, inspect, or collect license fees from hotels except as provided for in the Iowa hotel sanitation code.

If a municipal corporation wants its local board of health to license, inspect, and otherwise enforce the Iowa hotel sanitation code within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the Iowa hotel sanitation code if it also agrees to enforce the Iowa food service sanitation code pursuant to section four (4) of this Act and to enforce the food and beverage vending machine laws pursuant to section sixty-one (61) of this Act.

Each local board of health that is responsible for enforcing the Iowa hotel sanitation code within its jurisdiction, pursuant to an agreement, shall make an annual report to the secretary providing the following information:

1. The total number of hotel licenses granted or renewed during the year.
2. The number of hotel licenses granted or renewed during the year broken down into the following categories:
 - a. Hotels containing fifteen guest rooms or less.
 - b. Hotels containing more than fifteen but less than thirty-one guest rooms.
 - c. Hotels containing more than thirty but less than seventy-six guest rooms.
 - d. Hotels containing more than seventy-five but less than one hundred fifty guest rooms.
 - e. Hotels containing one hundred fifty or more guest rooms.
3. The amount of money collected in license fees during the year.
4. Other information the secretary requests.

The secretary shall monitor local boards of health to determine if they are enforcing the Iowa hotel sanitation code within their respective jurisdictions. If the secretary determines that the Iowa hotel sanitation code is enforced by a local board of health, such enforcement shall be accepted

in lieu of enforcement by the department in that jurisdiction. If the secretary determines that the Iowa hotel sanitation code is not enforced by a local board of health, the secretary may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the secretary shall assume responsibility for enforcement in the jurisdiction involved.

Sec. 19. NEW SECTION. LICENSE REQUIRED. No person shall open or operate a hotel until a license has been obtained from the regulatory authority and until the hotel has been inspected by the regulatory authority. A license issued by the department of agriculture prior to the effective date of this Act shall be valid until its expiration date. An inspection conducted by the department of agriculture prior to the effective date of this Act shall be valid for purposes of this section. Each license shall expire one year from date of issue. A license is renewable. All licenses issued under the Iowa hotel sanitation code that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee if the license is renewed at a later date. A license is not transferable.

Sec. 20. NEW SECTION. APPLICATION FOR LICENSE. Every application for a license under the Iowa hotel sanitation code shall be made upon a blank furnished by the regulatory authority and shall contain the items required by the department as to ownership, management, location, buildings, equipment, rates, and other data concerning the hotel for which a license is desired. An application for a license to operate an existing hotel shall be made at least thirty days before the expiration of the existing license.

Sec. 21. NEW SECTION. LICENSE FEES. Either the department or the municipal corporation shall collect the following annual license fees:

1. For a hotel containing fifteen guest rooms or less, twenty dollars.
2. For a hotel containing more than fifteen but less than thirty-one guest rooms, thirty dollars.
3. For a hotel containing more than thirty but less than seventy-six guest rooms, forty dollars.
4. For a hotel containing more than seventy-five but less than one hundred fifty guest rooms, fifty dollars.
5. For a hotel containing one hundred fifty or more guest rooms, seventy-five dollars.

Fees collected by the department shall be deposited in the general fund of the state. Fees collected by a municipal corporation shall be retained by it and for its use.

Sec. 22. NEW SECTION. LICENSE REVOCATION. A license issued under the Iowa hotel sanitation code may be revoked by the regulatory authority for violation by the licensee of a provision of the Iowa hotel sanitation code or applicable rule of the department.

Sec. 23. NEW SECTION. TOILET AND LAVATORY FACILITIES. A hotel shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to chapter seventeen A (17A) of the Code.

Sec. 24. NEW SECTION. PLUMBING IN HOTELS. A hotel shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The plumbing system shall have a connection to a municipal water and sewerage system or to a benefited water district or sanitary sewerage district whenever such facilities become available.

A hotel beyond the reach of a central water or sewerage system shall be served by on-site facilities which meet the technical requirements of the local board of health, the department of health, and the department of environmental quality.

Sec. 25. NEW SECTION. EMPLOYMENT OF DISEASED PERSONS. No person infected with a communicable disease as defined in chapter one hundred thirty-nine (139) of the Code shall work in a hotel. No employer shall permit such a person to work in the employer's hotel.

Sec. 26. NEW SECTION. LIST OF ROOM RATES TO BE POSTED. A complete list of rooms by number together with the number of the floor and the rate per day per person for each room shall be kept continuously and conspicuously posted on the wall near the office in the lobby of a hotel in such a way as to be accessible to the public without request to the management. The rate per day per person for each room shall also be posted in the same manner in each room. No amount greater than the one posted shall be charged.

Sec. 27. NEW SECTION. INCREASE OF RATES. The rates posted under section twenty-six (26) of this Act shall not be increased until sixty days' notice of the proposed increase has been given to the regulatory authority.

Sec. 28. NEW SECTION. FIRE PROTECTION REGULATIONS. The

state fire marshal shall adopt, amend, promulgate, and enforce standards relating to fire protection and fire safety in hotels in accordance with chapter seventeen A (17A) of the Code.

Sec. 29. NEW SECTION. ANNUAL INSPECTION. The regulatory authority shall inspect each hotel in the state at least once each calendar year. The inspector may enter the hotel at any reasonable hour to make the inspection. The management shall afford free access to every part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete inspection.

Sec. 30. NEW SECTION. INSPECTION UPON COMPLAINT. Upon receipt of a verified complaint signed by a guest of a hotel and stating facts indicating the place is in an insanitary condition, the regulatory authority may conduct an inspection.

Sec. 31. NEW SECTION. PENALTY. A person who violates a provision of the Iowa hotel sanitation code shall be guilty of a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

Sec. 32. NEW SECTION. INJUNCTION. A person conducting a hotel in violation of a provision of the Iowa hotel sanitation code may be restrained by injunction from operating that hotel. If an imminent health hazard exists, the hotel, or as much of the hotel as is necessary, must cease operation. Operation shall not be resumed until authorized by the regulatory authority.

Sec. 33. NEW SECTION. DUTY OF COUNTY ATTORNEY. The county attorney in each county shall assist in the enforcement of the Iowa hotel sanitation code.

Sec. 34. NEW SECTION. CONFLICTING STATUTES. Provisions of the Iowa hotel sanitation code in conflict with the state building code shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

Sec. 35. Section one hundred fifty-nine point six (159.6), subsection seven (7), Code 1977, is amended to read as follows:

7. ~~Hotels, restaurants, and food~~ Food establishments, chapter 170.

Sec. 36. Section one hundred fifty-nine point six (159.6), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. Food service establishments as set forth in sections one (1) through fifteen (15) of this Act.

NEW SUBSECTION. Hotels as set forth in sections sixteen

(16) through thirty-four (34) of this Act.

Sec. 37. Section one hundred seventy point one (170.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.1 DEFINITIONS. For the purpose of this chapter:

1. "Food" shall mean any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

2. "Food establishment" shall mean any place used as a bakery, confectionery, cannery, packinghouse, slaughterhouse where animals or poultry are killed or dressed for food, retail grocery, meat market, or other place in which food is kept, produced, prepared, or distributed for commercial purposes for off the premise consumption, except those premises covered by a current class "A" beer permit as provided in chapter one hundred twenty-three (123) of the Code.

Sec. 38. Section one hundred seventy point two (170.2), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.2 LICENSE REQUIRED. No person shall open or operate a food establishment until a license has been obtained from the department of agriculture. Each license shall expire one year from date of issue. A license is renewable. This section shall not require the licensing of establishments exclusively engaged in the processing of meat and poultry which are licensed pursuant to section one hundred eighty-nine A point three (189A.3) of the Code.

Sec. 39. Section one hundred seventy point four (170.4), Code 1977, is amended to read as follows:

170.4 OPERATION WITHOUT INSPECTION OR LICENSE. No person shall open or operate a ~~hotel, motor-inn, tavern, restaurant,~~ or food establishment until inspection has been made by the department of agriculture ~~or proper application for license has been made at least fourteen days in advance of opening.~~

Sec. 40. Section one hundred seventy point five (170.5), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.5 LICENSE FEES. The department of agriculture shall collect the following fees for licenses:

For a food establishment with an annual gross sales volume of:

1. Less than ten thousand dollars, twenty dollars.
2. Ten thousand dollars but less than two hundred fifty thousand dollars, fifty dollars.

3. Two hundred fifty thousand dollars but less than five hundred thousand dollars, seventy-five dollars.

4. Five hundred thousand dollars but less than seven hundred fifty thousand dollars, one hundred dollars.

5. Seven hundred fifty thousand dollars or more, one hundred fifty dollars.

The fees paid by a food establishment to the department shall be reduced by fifty percent of the amount of any fees paid to the department by it for a food service establishment license for the same premises.

All licenses issued under this chapter that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee if the license is renewed at a later date.

After collection, the fees shall be deposited in the general fund of the state.

Sec. 41. Section one hundred seventy point nine (170.9), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.9 PLUMBING IN BUILDINGS. Every food establishment shall have an adequately designed plumbing system conforming to at least the minimum requirements of the state plumbing code. The plumbing system shall have a connection to a municipal water and sewerage system or to a benefited water district or sanitary sewerage district whenever such facilities become available.

Sec. 42. Section one hundred seventy point ten (170.10), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.10 FOOD ESTABLISHMENTS WITH PRIVATE WATER AND SEWER FACILITIES. When a food establishment is served by privately owned water or waste treatment facilities these facilities shall meet the technical requirements of the local board of health, the department of health, and the department of environmental quality.

Sec. 43. Section one hundred seventy point nineteen (170.19), Code 1977, is amended to read as follows:

170.19 SANITARY REGULATIONS. The following sanitary regulations shall be complied with in ~~every hotel, restaurant, and a~~ food establishment:

1. The floors, walls, ceilings, woodwork, utensils, machinery, and other equipment, and all vehicles and equipment used in the transportation of food shall be kept in a thoroughly clean condition.

2. Food shall be at all times adequately protected from flies, dirt, and contamination from any source.

3. Dirt, refuse, and waste products subject to decomposition or fermentation shall be removed daily.

4. ~~The clothing of all persons employed shall be kept clean, and those who handle food shall keep themselves clean, keep their fingernails well trimmed, and wash their hands and arms before beginning work and after visiting the toilet.~~ Clean clothing shall be worn by all food handlers and employees and all employees shall wash themselves after engaging in activities which may affect their cleanliness.

5. Smoking by proprietors, cooks, and help shall be strictly forbidden while preparing or serving food. Proprietors shall be held responsible when employees violate this rule.

6. While preparing food, employees shall use effective hair restraints to prevent the contamination of food.

7. No dogs or pets shall be allowed in any a food establishment, ~~restaurant, cafeteria, cocktail lounge, or tavern,~~ except as provided in section 601D.5.

Sec. 44. Section one hundred seventy point twenty-six (170.26), Code 1977, is amended to read as follows:

170.26 EMPLOYMENT OF DISEASED PERSONS. No person infected with any a communicable disease as defined in chapter 139 shall work in ~~any hotel, motor inn, restaurant, tavern, cocktail lounge, or a~~ food establishment ~~nor shall any.~~ No employer shall permit any such a person to work at any such in the employer's food establishment.

Sec. 45. Section one hundred seventy point thirty-eight (170.38), Code 1977 Supplement, is amended by striking the section and inserting in lieu thereof the following:

170.38 FIRE PROTECTION REGULATIONS. The state fire marshal shall adopt, amend, promulgate, and enforce standards relating to fire protection and fire safety in food establishments in accordance with chapter seventeen A (17A) of the Code.

Sec. 46. Section one hundred seventy point forty-six (170.46), Code 1977, is amended to read as follows:

170.46 ANNUAL INSPECTION. The department shall ~~cause to be inspected~~ inspect each food establishment in the state at least once each calendar year, every hotel, restaurant, and food establishment in the state, and any. The inspector ~~of said department~~ may enter any such the place food establishment at any reasonable hour to make such the inspection. The management shall afford free access to every

part of the premises and render all aid and assistance necessary to enable the inspector to make a thorough and complete examination inspection.

Sec. 47. Section one hundred seventy point forty-seven (170.47), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

170.47 INSPECTION UPON COMPLAINT. Upon receipt of a verified complaint signed by a customer of a food establishment and stating facts indicating the place is in an insanitary condition, the department may conduct an inspection.

Sec. 48. Section one hundred seventy point fifty (170.50), Code 1977, is amended to read as follows:

170.50 INJUNCTION. Any A person conducting operating a hotely-restauranty-or food establishmenty in violation of any a provision of this chaptery may be restrained by injunction from further operating such-place-of-business that food establishment. No-injunction-shall-issue-until-after the-defendant-has-had-at-least-five-days-notice-of-the application-therefor,-and-the-time-fixed-for-hearing-thereon- If an imminent health hazard exists, the food establishment must cease operation. Operation shall not be resumed until authorized by the department.

Sec. 49. Chapter one hundred seventy (170), Code 1977, is amended by adding the following new section:

NEW SECTION. TOILET AND LAVATORY FACILITIES. A food establishment shall provide toilet and lavatory facilities in accordance with rules adopted by the department pursuant to chapter seventeen A (17A) of the Code.

Sec. 50. Section one hundred eighty-nine A point three (189A.3), unnumbered paragraphs one (1) and two (2), Code 1977, are amended to read as follows:

No person shall operate an establishment other than a grocery store or food service establishment as defined in section two (2) of this Act without first obtaining a license from the department. The license fee for each establishmenty-excluding-restaurants-and-grocery-storesy per year or any part of a year shall be:

1. For all meat and poultry slaughtered or otherwise prepared not exceeding twenty thousand pounds per year for sale, resale, or custom, twenty-five dollars.

2. For all meat and poultry slaughtered or otherwise prepared in excess of twenty thousand pounds per year for sale ~~or~~, resale, or custom, fifty dollars.

~~The-license-fee-for-each-restaurant-selling-twenty-pounds~~

~~or more of meat or meat products annually and each grocery store per year or any part of a year shall be five dollars.~~

Sec. 51. Section one hundred ninety-one A point one (191A.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

191A.1 DEFINITIONS. For the purpose of this chapter:

1. "Commissary" or "vending machine commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored.
2. "Secretary" means the secretary of agriculture.
3. "Department" means the department of agriculture.
4. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
5. "Local board of health" means a county, city, or district board of health.
6. "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.
7. "Municipal corporation" means a political subdivision of this state.
8. "Operator" means any person who by contract, agreement, or ownership takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more vending machines.
9. "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shell fish, edible crustacea, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth or infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.5 or below or a water activity (Aw) value of 0.85 or less.
10. "Regulatory authority" means the state department of agriculture or local board of health that has entered into an agreement with the secretary of agriculture pursuant to section sixty-one (61) of this Act for authority to enforce the food and beverage vending machine laws in its jurisdiction.
11. "Vending machine" means any self-service device which, upon insertion of a coin or token, or by other similar means, dispenses unit servings of food, either in bulk or in packages,

without the necessity of replenishing the device between each vending operation.

12. "Perishable food" means any food of a type or in a condition which may spoil.

Sec. 52. Section one hundred ninety-one A point two (191A.2), Code 1977, is amended to read as follows:

191A.2 LICENSE TO OPERATE. No person shall operate one or more vending machines until ~~he has obtained~~ a vending machine operator's license has been obtained from the ~~department of agriculture~~ regulatory authority. A license issued by the department of agriculture prior to the effective date of this Act shall be valid until its expiration date. The annual license shall expire one year from the date of original issuance and ~~be renewed annually~~ is renewable. Vending machines dispensing only ball gum, or similar nonperishable snacks as prescribed and defined by regulation of the secretary, or bottled or canned soft drinks shall not require a license or be subject to the fee schedule provided in this chapter, but they may be inspected pursuant to section 191A.8.

Sec. 53. Section one hundred ninety-one A point three (191A.3), Code 1977, is amended to read as follows:

191A.3 APPLICATION. ~~Every~~ An application for a vending machine operator's license shall be made upon a form furnished by the ~~department~~ regulatory authority. The application form shall provide for obtaining information relating to ownership of commissaries, location of commissaries, location of shops and other servicing centers, and the total number of licensable vending machines by general product type owned and operated by the applicant and ~~such~~ other information required by the secretary. The operator shall agree in the application to maintain within the jurisdiction of the ~~department~~ regulatory authority a complete list of all vending machines and machine locations operated by the applicant and to make the list available to the ~~department~~ regulatory authority at the time of inspection or auditing.

Sec. 54. Section one hundred ninety-one A point four (191A.4), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

191A.4 The regulatory authority shall collect a fee of two dollars per vending machine for a vending machine operator's license.

The vending machine operator's license shall not be transferable from one person to another, but shall require an immediate application and the payment of a new fee.

Fees for a vending machine commissary shall be the same as those for a food establishment as set forth in section one hundred seventy point five (170.5) of the Code or for a food service establishment as set forth in section five (5) of this Act, whichever is applicable.

Sec. 55. Section one hundred ninety-one A point six (191A.6), Code 1977, is amended to read as follows:

191A.6 IDENTIFICATION TAG. Each vending machine licensed under the provisions of this chapter shall bear a readily visible identification tag or decal provided by the licensee, containing his or her business address and phone number, and a company permit number assigned by the department regulatory authority.

Sec. 56. Section one hundred ninety-one A point seven (191A.7), Code 1977, is amended to read as follows:

191A.7 DISCIPLINARY ACTION. Any A license issued under this chapter may be revoked by the department regulatory authority for violation by the licensee of any a provision of this chapter or any-applicable-rules-or-regulations an applicable rule of the department. In lieu of license revocation, the department regulatory authority may require the immediate discontinuance of operation of any a vending machine or commissary whenever ~~the department~~ it finds unsanitary insanitary conditions or any other conditions which constitute a substantial hazard to the public health. The order shall apply only to the vending machines, commissary, or product involved. Any A person whose license is revoked, or who is ordered to discontinue the operation of any a vending machine or commissary, may appeal such that decision to the secretary. The secretary or ~~his~~ the secretary's designee shall schedule and hold a hearing upon the appeal not later than thirty days from the time of revocation or the order of discontinuance, ~~and~~. The secretary shall issue ~~his a~~ a decision immediately following the hearing. Judicial review may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 57. Section one hundred ninety-one A point eight (191A.8), Code 1977, is amended to read as follows:

191A.8 INSPECTION. The department regulatory authority shall inspect all vending machine commissaries at least once each calendar year, and shall inspect representative vending machines and vehicles as often as deemed necessary to determine compliance with this chapter and applicable rules of the department. Section ~~470-47~~ thirty (30) of this Act shall

be applicable to the operation of vending machines.

Sec. 58. Section one hundred ninety-one A point nine (191A.9), Code 1977, is amended to read as follows:

191A.9 APPLICABLE PROVISIONS. The provisions of sections ~~470-46~~ twenty-nine (29) of this Act, 170.50, and 170.51 shall apply in the enforcement of this chapter.

Sec. 59. Section one hundred ninety-one A point eleven (191A.11), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

191A.11 EXCEPTIONS TO LICENSE. The food establishment license required by section one hundred seventy point two (170.2) of the Code or the food service establishment license required by the Iowa food service sanitation code shall not be required for the area where vending machines licensed under this chapter are located.

Sec. 60. Chapter one hundred ninety-one A (191A), Code 1977, is amended by adding the following new section:

NEW SECTION. FEES DEPOSITED IN GENERAL FUND. All fees collected by the department under the requirements of this chapter shall be deposited in the general fund of the state. Fees collected by a municipal corporation under the requirements of this chapter shall be retained by it and for its use.

Sec. 61. Chapter one hundred ninety-one A (191A), Code 1977, is amended by adding the following new section:

NEW SECTION. AUTHORITY TO ENFORCE THE FOOD AND BEVERAGE VENDING MACHINE LAWS. The secretary has sole and exclusive authority to regulate, license, and inspect food and beverage vending machines and operators and to otherwise enforce the food and beverage vending machine laws. Municipal corporations shall not regulate, license, inspect, or collect license fees for food and beverage vending machines or their operation except pursuant to this section.

If a municipal corporation wants its local board of health to enforce the food and beverage vending machine laws within its jurisdiction, the municipal corporation may enter into an agreement to do so with the secretary. The secretary may enter into such an agreement if the secretary finds that the local board of health has adequate resources to perform the required functions. A municipal corporation may only enter into an agreement to enforce the food and beverage vending machine laws if it also agrees to enforce the Iowa food service sanitation code pursuant to section four (4) of this Act and to enforce the Iowa hotel sanitation code pursuant to section eighteen (18) of this Act.

Each local board of health that is responsible for enforcing the food and beverage vending machine laws within its jurisdiction pursuant to an agreement shall make an annual report to the secretary providing the following information:

1. The total number of food or beverage vending machine operator's licenses granted or renewed during the year.
2. The amount of money collected in license fees during the year.
3. Other information the secretary requests.

The secretary shall monitor local boards of health to determine if they are enforcing the food and beverage vending machine laws within their respective jurisdictions. If the secretary determines that the food and beverage vending machine laws are enforced by a local board of health, the secretary shall accept such enforcement in lieu of enforcement by the department in that jurisdiction. If the secretary determines that the food and beverage vending machine laws are not enforced by a local board of health, the secretary may rescind the agreement after reasonable notice and an opportunity for a hearing. If the agreement is rescinded, the secretary shall assume responsibility for enforcement in the jurisdiction involved.

Sec. 62. Sections one hundred seventy point seven (170.7), one hundred seventy point eleven (170.11), one hundred seventy point thirteen (170.13), one hundred seventy point fourteen (170.14), one hundred seventy point sixteen (170.16), one hundred seventy point seventeen (170.17), one hundred seventy point eighteen (170.18), one hundred seventy point twenty-one (170.21), one hundred seventy point twenty-two (170.22), one hundred seventy point twenty-three (170.23), one hundred seventy point twenty-four (170.24), one hundred seventy point twenty-nine (170.29), one hundred seventy point thirty (170.30), one hundred seventy point thirty-one (170.31), one hundred seventy point thirty-two (170.32), one hundred seventy point thirty-three (170.33), one hundred seventy point thirty-five (170.35), one hundred seventy point thirty-six (170.36), one hundred seventy point thirty-seven (170.37), one hundred ninety-one A point five (191A.5), one hundred ninety-two point one (192.1), one hundred ninety-two point two (192.2), one hundred ninety-two point three (192.3), and one hundred ninety-two point four (192.4), Code 1977, are repealed.

Sec. 63. Section three (3) of this Act is effective July 1, 1978.

Sec. 64. Except as otherwise specifically provided, this Act is effective January 1, 1979.

Approved April 27, 1978

CHAPTER 1079
CORPORATE FARMING

H. F. 2021

AN ACT relating to definitions and reports pertaining to corporate farming, restrictions on and conveyance of agricultural land holdings, and providing penalties for violations of the corporate farming Act.

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

Section 1. Section one hundred seventy-two C point one (172C.1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-two (82), is amended by adding the following new subsection:

NEW SUBSECTION. "Actively engaged in farming" means that a natural person who is a shareholder and an officer, director or employee of the corporation either:

- a. Inspects the production activities periodically and furnishes at least half of the value of the tools and pays at least half the direct cost of production; or
- b. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the success of the farm operation; or
- c. Performs physical work which significantly contributes to crop or livestock production.

NEW SUBSECTION. "Nonresident alien" means:

- a. An individual who is not a citizen of the United States and who is not domiciled in the United States.
- b. A corporation incorporated under the law of any foreign country.
- c. A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.
- d. A trust organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.
- e. A partnership or limited partnership organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

NEW SUBSECTION. The term "beneficial ownership" includes interests held by a nonresident alien individual directly or indirectly holding or acquiring a ten percent or greater share in the partnership, limited partnership, corporation or trust, or directly or indirectly through two or more such entities. In addition, the term beneficial ownership shall include interests held by all nonresident alien individuals if the nonresident alien individuals in the aggregate directly or indirectly hold or acquire twenty-five percent or more of the partnership, limited partnership, corporation or trust.

Sec. 2. Section one hundred seventy-two C point four (172C.4), subsection two (2), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. Commercial sales are incidental to the research or experimental objectives of the corporation when they are less than twenty-five percent of the gross sales of the primary product of the research. The limitation provided in this subsection shall not apply to corporations referred to in subsection three (3) of this section.

Sec. 3. Section one hundred seventy-two C point four (172C.4), subsection three (3), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-two (82), section four (4), is amended by striking the subsection and inserting in lieu thereof the following:

3. Agricultural land, including leasehold interests, acquired by a nonprofit corporation organized under the provisions of chapters five hundred four (504) and five hundred four A (504A) of the Code including land acquired and operated by or for a state university for research, experimental, demonstration, foundation seed increase or test purposes and land acquired and operated by or for nonprofit corporations organized specifically for research, experimental, demonstration, foundation seed increase or test purposes in support of or in conjunction with a state university.

Sec. 4. Section one hundred seventy-two C point four (172C.4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-two (82), is amended by adding the following new subsections:

NEW SUBSECTION. Agricultural land acquired by a trust for immediate use in non-farming purposes.

NEW SUBSECTION. Any corporation, other than a family farm corporation or an authorized farm corporation, violating the provisions of this section shall upon conviction, be punished

by a fine of not more than fifty thousand dollars and shall divest itself of any land acquired in violation of this section within one year after conviction. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

Sec. 5. Section one hundred seventy-two C point five (172C.5), subsection one (1), Code 1977, is amended to read as follows:

1. Declaration of the type of agricultural activity engaged in by the reporting corporation and the name, address and title of the agent or person in charge of the corporation's daily operations.

Sec. 6. Section one hundred seventy-two C point six (172C.6), subsection two (2), Code 1977, is amended to read as follows:

2. Declaration of the type of agricultural activity engaged in by the reporting limited partnership and the name, address and title of the agent or person in charge of the limited partnership's daily operations.

Sec. 7. Section one hundred seventy-two C point eleven (172C.11), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

172C.11 PENALTIES--REPORTS. Failure to timely file a report or the filing of false information is punishable by a civil fine not to exceed one thousand dollars.

For purposes of this section a report is timely filed if the report is filed prior to May first of the year in which it is required to be filed.

The secretary of state shall notify a person whom the secretary has reason to believe is required to file a report as provided by this chapter and who has not filed a timely report that the person may be in violation of this section. After thirty days from receipt of the notice, any person required to report under this chapter who has not filed shall be assessed a civil fine of one hundred dollars for each day in which the report is not filed. The secretary of state shall include in the notice, a statement of the penalty which will be assessed if the report is required and is not filed within thirty days. This penalty shall be in addition to any other penalty under this chapter.

Sec. 8. Section one hundred seventy-two C point fourteen (172C.14), Code 1977, is amended to read as follows:

172C.14 DUTIES OF SECRETARY OF STATE--LEGISLATIVE USE. The secretary of state shall do all things necessary to implement this chapter. It is the intent of this section that information shall be made available to members of the general assembly and appropriate committees of the general assembly in order to determine the extent of farming being carried out in this state by corporations and other business entities and the effect of such farming practices upon the economy of this state. The reports of processors required in section one hundred seventy-two C point nine (172C.9) of the Code shall be confidential reports except as to the general assembly and appropriate committees of the general assembly whose members upon receipt of such reports treat such information as confidential and to the attorney general for review and appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of studying the effects of this chapter and the practices this chapter seeks to study and regulate.

Sec. 9. Chapter five hundred fifty-eight (558), Code 1977, is amended by adding the following new sections:

NEW SECTION. DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. "Nonresident alien" means:
 - a. An individual who is not a citizen of the United States and who is not domiciled in the United States.
 - b. A corporation incorporated under the law of any foreign country.
 - c. A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.
 - d. A trust organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.
 - e. A partnership or limited partnership organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.
2. The term "beneficial ownership" includes interests held by a nonresident alien individual directly or indirectly holding or acquiring a ten percent or greater share in the partnership, limited partnership, corporation or trust, or directly or indirectly through two or more such entities. In addition, the term beneficial ownership shall include interests held by all nonresident alien individuals if the

nonresident alien individuals in the aggregate directly or indirectly hold or acquire twenty-five percent or more of the partnership, limited partnership, corporation or trust.

3. The term "conveyance" means all deeds and all contracts for the conveyance of an estate in real property except those contracts to be fulfilled within six months from date of execution thereof.

4. "Agricultural land" means agricultural land as defined in section one hundred seventy-two C point one (172C.1) of the Code.

NEW SECTION. MANDATORY RECORDATION OF CONVEYANCES AND LEASES OF AGRICULTURAL LAND. Every conveyance or lease of agricultural land, except leases not to exceed five years in duration with renewals, conveyances or leases made by operation of law, and distributions made from estates to heirs or devisees shall be recorded by the grantee or lessee with the county recorder not later than one hundred eighty days after the date of conveyance or lease.

For an instrument of conveyance of agricultural land deposited with an escrow agent, the fact of deposit of that instrument of conveyance with the escrow agent as well as the name and address of the grantor and grantee shall be recorded, by a document executed by the escrow agent, with the county recorder not later than one hundred eighty days from the date of the deposit with the escrow agent. For an instrument of conveyance of agricultural land delivered by an escrow agent, that instrument shall be recorded with the county recorder not later than one hundred eighty days from the date of delivery of the instrument of conveyance by the escrow agent.

At the time of recordation of the conveyance or lease of agricultural land, except a lease not exceeding five years in duration with renewals, conveyances or leases made by operation of law and distributions made from estates of decedents to heirs or devisees, to a nonresident alien as grantee or lessee, such conveyance or lease shall disclose, in an affidavit to be recorded therewith as a precondition to recordation, the name, address, and citizenship of the nonresident alien. In addition, if the nonresident alien is a partnership, limited partnership, corporation or trust, the affidavit shall also disclose the names, addresses, and citizenship of the nonresident alien individuals who are the beneficial owners of such entities. However, any partnership, limited partnership, corporation, or trust which has a class

of equity securities registered with the United States securities and exchange commission under section twelve (12) of the Securities Exchange Act of 1934 as amended to January 1, 1978, need only state that fact on the affidavit.

Failure to record a conveyance or lease of agricultural land required to be recorded by this section by the grantee or lessee within the specified time limit is punishable by a fine not to exceed one hundred dollars per day for each day of violation. The county recorder shall record a conveyance or lease of agricultural land presented for recording even though not presented within one hundred eighty days after the date of conveyance or lease. The county recorder shall forward to the county attorney a copy of each such conveyance or lease of agricultural land recorded more than one hundred eighty days from the date of conveyance. The county attorney shall initiate action in the district court to enforce the provisions of this section. Failure to timely record shall not invalidate an otherwise valid conveyance or lease.

Sec. 10. Chapter five hundred sixty-seven (567), Code 1977, is amended by adding the following new section:

NEW SECTION. DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. "Nonresident alien" means:
 - a. An individual who is not a citizen of the United States and who is not domiciled in the United States.
 - b. A corporation incorporated under the law of any foreign country.
 - c. A corporation organized in the United States, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.
 - d. A trust organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.
 - e. A partnership or limited partnership organized in the United States or elsewhere if beneficial ownership is held, directly or indirectly, by nonresident alien individuals.

Real estate owned or controlled on July 1, 1978, by a nonresident alien as defined in paragraphs c, d and e of this subsection, except corporations organized in the United States with fifty percent or more of its stock owned or controlled by nonresident aliens, shall not escheat to the state under the provisions of this chapter.

2. The term "beneficial ownership" includes interests

held by a nonresident alien individual directly or indirectly holding or acquiring a ten percent or greater share in the partnership, limited partnership, corporation or trust, or directly or indirectly through two or more such entities. In addition, the term beneficial ownership shall include interests held by all nonresident alien individuals if the nonresident alien individuals in the aggregate directly or indirectly hold or acquire twenty-five percent or more of the partnership, limited partnership, corporation or trust.

Sec. 11. The provisions of section nine (9) of this Act are effective July 1, 1979, for all conveyances and leases of agricultural land made on or after July 1, 1979.

Approved June 27, 1978

CHAPTER 1080

ESTRAYS AND TRESPASSING ANIMALS

H. F. 2022

AN ACT relating to changes allowed for keeping estrays and trespassing animals.

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

Section 1. Section one hundred eighty-eight point forty-eight (188.48), subsections one (1), two (2), three (3), four (4), and six (6), Code 1977, are amended to read as follows:

1. For distraining all animals except as otherwise provided, ~~fifty-cents~~ two dollars for each head ~~not-exceeding two-and-twenty-five-cents-for-each-additional-head~~ taken on one distraint.
2. For distraining each stallion, jack, bull, boar, or buck, ~~one-dollar~~ two dollars.
3. For keeping horses, cattle, mules, and asses, ~~fifty cents~~ two dollars a day, from the time the same is taken up.
4. For keeping any other animals, ~~twenty-five-cents~~ two dollars a day from the time the same is taken up.
6. For taking up as an estray ~~one~~ two dollars a head, ~~fifty-cents-and-twenty-five-cents-for-each-additional-head~~ at-one-time.

Approved April 21, 1978

CHAPTER 1081

COTTAGE CHEESE

S. F. 2180

AN ACT to establish standards for the production and processing of cottage cheese dry curd, cottage cheese, and low fat cottage cheese.

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

Section 1. Section one hundred ninety point one (190.1), subsection four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter eighty-three (83), section one (1), is amended to read as follows:

4. CHEESES AND CHEESE PRODUCTS. The specifications and standards for cheeses and cheese products, cottage cheese dry curd, cottage cheese, and low fat cottage cheese shall be as provided by the definitions and standards contained in federal food and drug standards under the ~~federal-Feed, Drug, and Cosmetic Act~~ Code of Federal Regulations, Part ~~49~~ one hundred thirty-three (133) of Title 21, as amended to April 1, ~~1976~~ 1977.

Sec. 2. Section one hundred ninety point one (190.1), subsection fifty-five (55), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

This definition is not intended to include such products as sterilized milk and milk products hermetically sealed in a container and so processed, either before or after sealing, as to prevent microbial spoilage, or evaporated milk, condensed milk, ice cream and other frozen desserts, butter, dry milk products, except as defined herein, cottage cheese dry curd, cottage cheese, low fat cottage cheese, cheese or cheese products except when they are combined with other substances to produce any pasteurized milk or milk product defined herein.

Sec. 3. Section one hundred ninety-two point thirty (192.30), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Municipal corporations may establish grade "A" standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this section; however no municipal corporation shall require a grade "A" rating for these products as a condition precedent to their sale within the city.

Sec. 4. This Act shall take effect January 1, 1979.

Approved May 15, 1978

CHAPTER 1082

EXCISE TAX ON EGGS

S. F. 2189

AN ACT relating to the excise tax on egg sales.

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

Section 1. Section one hundred ninety-six A point one (196A.1), subsection two (2), Code 1977, is amended to read as follows:

2. "Hatchery man operator" means any person who operates a hatchery licensed under chapter 168 and who is actively engaged in the business of hatching and or selling chickens for commercial purposes.

Sec. 2. Section one hundred ninety-six A point five (196A.5), Code 1977, is amended to read as follows:

196A.5 COMPOSITION OF COUNCIL. The Iowa egg council established under this chapter shall be composed of four egg producers, one from each district; two egg processors, and one hatchery man operator who shall be appointed pursuant to this chapter. The secretary or his or her representative, the director of the Iowa development commission, and the chairman of the poultry science section of the department of animal science at Iowa State University of science and technology or his or her representative shall serve as ex officio nonvoting members of the council. The council shall annually elect a chairman chairperson from its membership.

Sec. 3. Section one hundred ninety-six A point six (196A.6), Code 1977, is amended to read as follows:

196A.6 INITIAL APPOINTMENTS. For the initial council the secretary shall notify the Iowa poultry association, incorporated, immediately after passage of the question at the referendum election and the association shall nominate two producers from each district, four processors from the state, and two hatchery man operators from the state to serve on the Iowa egg council. The secretary shall receive the nominations and shall appoint from these nominations members of the initial council within thirty days following passage of the question at the referendum election.

Sec. 4. Section one hundred ninety-six A point eight (196A.8), Code 1977, is amended to read as follows:

196A.8 TERMS. The term of office for members of the

council shall be four years and no member shall serve more than three consecutive terms. The producers on the initial council shall determine their terms by lot, so that two producers shall serve a two-year term and two producers shall serve a four-year term. The two processors on the initial council shall determine their terms by lot so that one processor shall serve a two-year term and one shall serve a four-year term. The hatchery ~~man~~ operator on the initial council shall serve a two-year term.

Sec. 5. Section one hundred ninety-six A point nine (196A.9), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

In addition the council shall appoint a nominating committee composed of five processors and five hatchery ~~men~~ operators in the state. The nominating committee shall nominate two processors as candidates for each processor position and two hatchery ~~men~~ operators as candidates for the hatchery ~~man~~ operator position on the council.

Sec. 6. Section one hundred ninety-six A point seventeen (196A.17), Code 1977, is amended to read as follows:

196A.17 EGG FUND. Subject to the provisions of section 196A.15, the tax imposed by this chapter shall be remitted by the purchaser to the Iowa egg council not later than thirty days following each calendar quarter ~~following collection of the tax during which the tax was collected.~~ Amounts collected from the tax shall be deposited in the office of the treasurer of state in a separate fund to be known as the Iowa egg fund.

Sec. 7. Section one hundred ninety-six A point eighteen (196A.18), Code 1977, is amended to read as follows:

196A.18 REFUNDS. A producer who has paid the tax may, by application in writing to the council, secure a refund in the amount paid or any portion thereof. The refund shall be payable only when the application shall have been made to the council within sixty days after ~~payment of the tax the end of the calendar quarter during which the eggs were sold by the producer.~~ Each application for refund by a producer shall have attached thereto proof of tax paid. The proof of tax paid may be in the form of a duplicate or certified copy of the purchase invoice by the purchaser.

Sec. 8. Section one hundred ninety-six A point twenty (196A.20), Code 1977, is amended to read as follows:

196A.20 WARRANTS BY COMPTROLLER. The Iowa egg fund shall be subject at all times to warrant by the state comptroller,

upon written requisition of the ~~chairman~~ chairperson or treasurer of the council, attested to by the council secretary or executive director.

Sec. 9. This Act is effective January 1, 1979.

Approved May 12, 1978

CHAPTER 1083

UNIFORM CONTROLLED SUBSTANCE

H. F. 2294

AN ACT to define an additional substance as a controlled substance under the uniform controlled substances Act.

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

Section 1. Section two hundred four point two hundred ten (204.210), subsection five (5), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. Prazepam.

Approved April 27, 1978

CHAPTER 1084

WEIGHTS AND MEASURES

H. F. 561

AN ACT relating to the state standard of weights and measures.

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

Section 1. Section two hundred thirteen point one (213.1), Code 1977, is amended to read as follows:

213.1 STATE ~~SEALER~~ METROLOGIST. The department shall designate one of its assistants to act as state ~~sealer~~ metrologist of weights and measures. All weights and measures sealed by him or her shall be impressed with the word "Iowa."

Sec. 2. Section two hundred thirteen point two (213.2), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

213.2 PHYSICAL STANDARDS. Weights and measures, which conform to the standards of the national bureau of standards existing as of the effective date of this Act, that are traceable to the United States standards supplied by the federal government

or approved as being in compliance with its standards by the national bureau of standards shall be the state primary standard of weights and measures. Such weights and measures shall be verified upon initial receipt of same and as often as deemed necessary by the secretary of agriculture. The secretary may provide for the alteration in the state primary standard of weights and measures in order to maintain traceability with the standard of the national bureau of standards. All such alterations shall be made pursuant to rules promulgated by the secretary in accordance with chapter seventeen A (17A) of the Code.

Sec. 3. Section two hundred thirteen point four (213.4), Code 1977, is amended to read as follows:

213.4 SEALING MILK BOTTLES. The state ~~sealer~~ metrologist shall not be required to seal bottles for milk or cream, but they shall be inspected from time to time in order to ascertain whether they are standard.

Sec. 4. This Act is effective January 1, 1979.

Approved May 5, 1978

CHAPTER 1085

MENTALLY ILL PERSONS

S. F. 333

AN ACT to make certain clarifying and corrective revisions in and additions to chapter two hundred twenty-nine (229) of the Code, and certain related statutes, relating to hospitalization of the mentally ill, and to the procedure for involuntary commitment of persons found to be substance abusers.

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

Section 1. Section two hundred twenty-nine point one (229.1), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. "Director" or "state director" means the director of that division of the department of social services having jurisdiction of the state mental health institutes, or that director's designee.

NEW SUBSECTION. "Chemotherapy" means treatment of an individual by use of a drug or substance which cannot legally be delivered or administered to the ultimate user without a physician's prescription or medical order.

Sec. 2. Section two hundred twenty-nine point seven

(229.7), Code 1977, is amended to read as follows:

229.7 SERVICE OF NOTICE UPON RESPONDENT. Upon the filing of an application for involuntary hospitalization, the clerk shall docket the case and immediately notify a district court judge who shall review the application and accompanying documentation. If the application is adequate as to form, the judge may set a time and place for a hearing on the application, if feasible, and but the hearing shall not be held less than forty-eight hours after notice to the respondent unless the respondent waives such minimum prior notice requirement. The judge shall direct the clerk to send copies of the application and supporting documentation, together with a notice informing the respondent of the procedures required by this chapter, to the sheriff or his or her deputy for immediate service upon the respondent. If the respondent is taken into custody under section 229.11 service of the application, documentation and notice upon the respondent shall be made at the time he or she is taken into custody.

Sec. 3. Section two hundred twenty-nine point eight (229.8), subsection three (3), paragraph a, Code 1977, is amended to read as follows:

a. If not previously done, set a time and place for a hospitalization hearing, which shall be at the earliest practicable time not less than forty-eight hours after notice to the respondent, unless the respondent waives such minimum prior notice requirement; and

Sec. 4. Section two hundred twenty-nine point ten (229.10), subsection one (1), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the respondent is not taken into custody under section two hundred twenty-nine point eleven (229.11) of the Code, but the court is subsequently informed that the respondent has declined to be examined by the licensed physician or physicians pursuant to the court order, the court may order such limited detention of the respondent as is necessary to facilitate the examination of the respondent by the licensed physician or physicians.

Sec. 5. Section two hundred twenty-nine point eleven (229.11), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

If the applicant requests that the respondent be taken into immediate custody and the judge, upon reviewing the application and accompanying documentation, finds probable cause to believe that the respondent is seriously mentally

impaired and is likely to injure himself or herself or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody by the sheriff or his or her deputy and be detained until the hospitalization hearing, which shall be held no more than five days after the date of the order, except that if the fifth day after the date of the order is a Saturday, Sunday, or a holiday, the hearing may be held on the next succeeding business day. The judge may order the respondent detained for ~~that~~ the period of time until the hearing is held, and no longer, in accordance with subsection 1 if possible, and if not then in accordance with subsection 2 or, only if neither of these alternatives are available, in accordance with subsection 3. Detention may be:

Sec. 6. Section two hundred twenty-nine point twelve (229.12), Code 1977, is amended to read as follows:

229.12 HEARING PROCEDURE.

1. At the hospitalization hearing, evidence in support of the contentions made in the application shall be presented by the county attorney. During the hearing the applicant and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The respondent has the right to be present at the hearing. If the respondent exercises that right and has been medicated within twelve hours, or such longer period of time as the court may designate, prior to the beginning of the hearing or an adjourned session thereof, the judge shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding. Upon motion of the county attorney, the judge may exclude the respondent from the hearing during the testimony of any particular witness if the judge determines that that witness' testimony is likely to cause the respondent severe emotional trauma.

3. The respondent's welfare shall be paramount and the hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, but consistent therewith the issue shall be tried as a civil matter. Such discovery

as is permitted under the Iowa rules of civil procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered and need not be bound by the rules of evidence. There shall be a presumption in favor of the respondent, and the burden of evidence in support of the contentions made in the application shall be upon the applicant. If upon completion of the hearing the court finds that the contention that the respondent is seriously mentally impaired has not been sustained by clear and convincing evidence, it shall deny the application and terminate the proceeding.

4. If the respondent is not taken into custody under section two hundred twenty-nine point eleven (229.11) of the Code, but the court subsequently finds good cause to believe that the respondent is about to depart from the jurisdiction of the court, the court may order such limited detention of the respondent as is authorized by section two hundred twenty-nine point eleven (229.11) of the Code and is necessary to insure that the respondent will not depart from the jurisdiction of the court without the court's approval until the proceeding relative to the respondent has been concluded.

Sec. 7. Section two hundred twenty-nine point twenty-two (229.22), subsections two (2), three (3) and four (4), Code 1977, is amended to read as follows:

2. In the circumstances described in subsection 1, any peace officer who has reasonable grounds to believe that a person is mentally ill, and because of that illness is likely to physically injure himself or herself or others if not immediately detained, may without a warrant take or cause that person to be taken to the nearest available facility as defined in section 229.11, subsections 2 and 3. ~~Immediately upon taking the person into custody, the nearest available magistrate, as defined in section 748.47, shall be notified and shall immediately proceed to the facility. The magistrate shall in the manner prescribed by section 229.87, subsection 4 insure that the person has or is provided legal counsel at the earliest practicable time, and shall arrange for the counsel to be present, if practicable, before proceeding under this section.~~ A person believed mentally ill, and likely to injure himself or herself or others if not immediately detained, may be delivered to a hospital by someone other than a peace officer. Upon delivery of the person believed mentally ill to the hospital, the chief medical officer may order treatment of that person, including chemotherapy, but

only to the extent necessary to preserve the person's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The peace officer who took the person into custody, or other party who brought the person to the hospital, shall ~~remain until the magistrate's arrival and shall~~ describe the circumstances of the detention matter to the magistrate chief medical officer. If the magistrate chief medical officer finds that there is ~~probable-cause~~ reason to believe that the person is seriously mentally impaired, and because of that impairment is likely to physically injure himself or herself or others if not immediately detained, ~~he or she~~ the chief medical officer shall enter a written order for the person to be detained in custody at once communicate with the nearest available magistrate as defined in section eight hundred one point four (801.4), subsection six (6) of the Code Supplement. The magistrate shall immediately proceed to the facility where the person is detained, except that if the chief medical officer's communication with the magistrate occurs between the hours of midnight and the next succeeding seven o'clock a.m. and the magistrate deems it appropriate under the circumstances described by the chief medical officer, the magistrate may delay going to the facility and in that case shall give the chief medical officer verbal instructions either directing that the person be released forthwith or authorizing the person's continued detention at that facility. In the latter case, the magistrate shall:

a. By the close of business on the next working day, file with the clerk a written report stating the substance of the information on the basis of which the person's continued detention was ordered; and

b. Arrive at the facility where the person is being detained not later than eight o'clock a.m. of the same day on which the chief medical officer's notification occurs.

3. Upon arrival at the hospital, the magistrate shall at once review the matter. Unless convinced upon initial inquiry that there are no grounds for further detention of the person, the magistrate shall in the manner prescribed by section two hundred twenty-nine point eight (229.8), subsection one (1) of the Code insure that the person has or is provided legal counsel at the earliest practicable time, and shall arrange for the counsel to be present, if practicable, before proceeding further under this section.

If the magistrate finds upon review of the report prepared by the chief medical officer under subsection two (2) of this section, and of such other information or evidence as the magistrate deems pertinent, that there is probable cause to believe that the person is seriously mentally impaired and because of that impairment is likely to physically injure himself or herself or others if not detained, the magistrate and, if the facility where the person is at that time is not an appropriate hospital, transported to an appropriate hospital. The magistrate's order shall state the circumstances under which the person was taken into custody or otherwise brought to a hospital and the grounds supporting the finding of probable cause to believe that he or she is seriously mentally impaired and likely to physically injure himself or herself or others if not immediately detained. A The order shall be filed with the clerk of the district court in the county where it is anticipated that an application will be filed under section two hundred twenty-nine point six (229.6) of the Code, and a certified copy of the order shall be delivered to the chief medical officer of the hospital where the person is detained, at the earliest practicable time.

3 4. The chief medical officer of the hospital shall examine and may detain and care for the person taken into custody under the magistrate's order for a period not to exceed forty-eight hours from the time such order is dated, excluding Saturdays, Sundays and holidays, unless the order is sooner dismissed by a magistrate. The hospital may provide treatment which is necessary to preserve the person's life, or to appropriately control behavior by the person which is likely to result in physical injury to himself or herself or others if allowed to continue, but may not otherwise provide treatment to the person without his or her consent. The person shall be discharged from the hospital and released from custody not later than the expiration of that period, unless an application for his or her involuntary hospitalization is sooner filed with the clerk pursuant to section 229.6. The detention of any person by the procedure and not in excess of the period of time prescribed by this section shall not render the peace officer, physician or hospital so detaining that person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, physician or hospital had reasonable grounds to believe the person so detained was mentally*ill and likely

*According to enrolled Act

to physically injure himself or herself or others if not immediately detained.

4 5. The cost of hospitalization at a public hospital of a person detained temporarily by the procedure prescribed in this section shall be paid in the same way as if the person had been admitted to the hospital by the procedure prescribed in sections 229.6 to 229.13.

Sec. 8. Section two hundred twenty-nine point twenty-three (229.23), subsection two (2), Code 1977, is amended to read as follows:

2. The right to refuse treatment by shock therapy or chemotherapy, unless the use of these treatment modalities is specifically consented to by the patient's next-of-kin or guardian. The patient's right to refuse treatment by chemotherapy shall not apply during any period of custody authorized by section two hundred twenty-nine point four (229.4), subsection three (3), section two hundred twenty-nine point eleven (229.11) or section two hundred twenty-nine point twenty-two (229.22) of the Code, but this exception shall extend only to chemotherapy treatment which is, in the chief medical officer's judgment, necessary to preserve the patient's life or to appropriately control behavior by the person which is likely to result in physical injury to that person or others if allowed to continue. The patient's right to refuse treatment by chemotherapy shall also not apply during any period of custody authorized by the court pursuant to sections [two hundred twenty-nine point thirteen]* [229.13] or [two hundred twenty-nine point fourteen]* [229.14] of the Code. In any other situation in which, in the chief medical officer's judgment, chemotherapy is appropriate for the patient but the patient refuses to consent thereto and there is no next-of-kin or guardian to give consent, the chief medical officer may request an order authorizing treatment of the patient by chemotherapy from the district court which ordered the patient's hospitalization.

Sec. 9. Section two hundred twenty-nine point twenty-five (229.25), subsection four (4), Code 1977, is amended to read as follows:

4. The person who is hospitalized or that person's guardian, if the person is a minor or is not legally competent to do so, signs an ~~informal~~ informed consent to release information. Each signed consent shall designate specifically

*Words added by Code editor pursuant to section 3.1(3)
of the Code

the person or agency to whom the information is to be sent, and the information may be sent only to that person or agency.

Sec. 10. Section two hundred twenty-nine point forty-two (229.42), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

If a person wishing to make application for voluntary admission to a mental hospital established by chapter two hundred twenty-six (226) of the Code is unable to pay the costs of hospitalization or those responsible for such person are unable to pay such costs, application for authorization of voluntary admission must be made to any clerk of the district court before application for admission is made to the hospital. After determining the county of legal settlement the said clerk shall, on forms provided by the state director, authorize such person's admission to a mental health hospital as a voluntary case. The clerk shall at once provide a duplicate copy of the form to the county board of supervisors. The costs of the hospitalization shall be paid by the county of legal settlement to the state comptroller and credited to the general fund of the state, providing the mental health hospital rendering the services has certified to the county auditor of the responsible county the amount chargeable thereto and has sent a duplicate statement of such charges to the state comptroller.

Sec. 11. Chapter two hundred twenty-nine (229), Code 1977, is amended by adding the following new section:

NEW SECTION. STATUS OF PERSONS HOSPITALIZED UNDER FORMER LAW.

1. Each person admitted or committed to a hospital for treatment of mental illness on or before December 31, 1975 who remained so hospitalized, or was on convalescent leave or was receiving care in another facility on transfer from such hospitalization, on or after January 1, 1976 shall be considered to have been hospitalized under this chapter, and its provisions shall apply to each such person on and after the effective date of this section, except as otherwise provided by subsection three (3) of this section.

2. Hospitalization of any person for treatment of mental illness, either voluntary or involuntary, on or before December 31, 1975 shall not be deemed to constitute a finding of or to equate with nor raise a presumption of incompetency, or to cause the person who was so hospitalized to be deemed a lunatic, a person of unsound mind, or a person under legal disability for any purpose, including but not limited to the

circumstances enumerated in section two hundred twenty-nine point twenty-seven (229.27), subsection one (1) of the Code. Nothing in this subsection shall be construed to invalidate any specific declaration of incompetence of a person who was so hospitalized if the declaration was made pursuant to a separate procedure authorized by law for that purpose, and did not result automatically from the person's hospitalization.

3. Where a person was hospitalized involuntarily for treatment of mental illness on or before December 31, 1975 and remained so hospitalized, or was on convalescent leave or was receiving care in another facility on transfer from such hospitalization, on or after January 1, 1976, but was subsequently discharged prior to the effective date of this section, this section shall not be construed to require:

a. The filing after the effective date of this section of any report relative to that person's status which would have been required to be filed prior to the effective date of this section if that person had initially been hospitalized under this chapter as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter one hundred thirty-nine (139), sections one (1) through thirty (30).

b. That legal proceedings be taken under this chapter, as so amended, to clarify the status of the person so hospitalized, unless that person or the district court considers such proceedings necessary in a particular case to appropriately conclude the matter.

Sec. 12. Chapter two hundred twenty-nine (229), Code 1977, is amended by adding the following new section:

NEW SECTION. RULES FOR PROCEEDINGS.

1. The supreme court may prescribe rules of pleading, practice and procedure, and the forms of process, writs and notices, for all proceedings in any court of this state arising under this chapter. Any rules so prescribed shall be drawn for the purpose of simplifying and expediting the proceedings, so far as is consistent with the rights of the parties involved. The rules shall not abridge, enlarge nor modify the substantive rights of any party to a proceeding arising under this chapter.

2. Rules prescribed pursuant to this section shall be subject to section six hundred eighty-four point nineteen (684.19) of the Code.

Sec. 13. Chapter two hundred twenty-nine (229), Code 1977, is amended by adding sections fourteen (14) through seventeen

(17) of this Act, which shall be codified as a separate division of the chapter.

Sec. 14. NEW SECTION. DEFINITIONS. As used in this division:

1. "Respondent" means a person against whom a petition has been filed under this division.

2. "Department" means the Iowa department of substance abuse established by chapter one hundred twenty-five (125) of the Code.

3. "Director", "facility" and "substance abuser" have the respective meanings assigned those terms by section one hundred twenty-five point two (125.2) of the Code.

Sec. 15. NEW SECTION. INVOLUNTARY COMMITMENT OF SUBSTANCE ABUSERS--PETITION.

1. A person may be committed to the custody of a facility by the district court upon the petition of the person's spouse or guardian, a relative, the certifying physician, or the administrator in charge of a facility. The petition shall allege that the respondent is a substance abuser who habitually lacks self-control as to the use of chemical substances, and shall further allege either:

a. That the respondent has threatened, attempted or inflicted physical harm on another person, and is likely to inflict physical harm on himself or herself or on another person unless committed; or

b. That the respondent is incapacitated by a chemical substance.

A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment.

2. The petition shall be accompanied by a certificate of a licensed physician who has examined the respondent within two days before the submission of the petition, unless the respondent has refused to submit to a medical examination or was unavailable for examination, in which case the fact of refusal or unavailability shall be alleged in the petition. The certificate shall set forth the physician's findings in support of the allegations of the petition. A physician employed by the admitting facility or the department is not eligible to be the certifying physician.

3. Upon the filing of the petition, the court shall fix a date for a hearing, which shall be no later than ten days after the date the petition was filed. If a judicial hospitalization referee has been appointed under section two hundred twenty-nine point twenty-one (229.21) of the Code

for the county in which the petition is filed, the clerk of the district court shall immediately notify the referee of the filing of the petition and the referee shall thereupon discharge all of the duties imposed upon judges of the district court by this division, except the duty to hear appeals filed under subsection two (2) of section sixteen (16) of this Act. A copy of the petition and the notice of hearing shall be served in the manner of an original notice on the respondent and upon a parent or legal guardian if the respondent is a minor. A copy of the petition and the notice of hearing shall be mailed or delivered in the manner provided for motions in civil cases to the petitioner, the next of kin of the respondent other than the petitioner, the administrator of the facility to which the respondent has been committed for emergency care, and any other person the court believes should receive copies. A petition shall have attached a copy of the certificate specified in this section.

Sec. 16. NEW SECTION. HEARING--COMMITMENT--RECOMMITMENT.

1. At the hearing the court shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the respondent. The respondent shall be present unless the court believes that his or her presence is likely to be injurious to the respondent; in this event the court shall appoint a guardian ad litem to represent the respondent throughout the proceeding. The court shall examine the respondent in open court, or if advisable, shall examine the respondent out of court. If the respondent has refused to be examined by a licensed physician, he or she shall be given an opportunity to be examined by a court-appointed licensed physician. If the respondent refuses and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may make a temporary order committing the respondent for a period of not more than five days for purposes of a diagnostic examination.

2. If after hearing all relevant evidence, including the results of any diagnostic examination, the court finds that the allegations of the petition have been established by clear and convincing proof, it shall make an order of commitment to a facility. It may not order commitment of a respondent unless it determines that the facility is able to provide adequate and appropriate treatment for the respondent and the treatment is likely to be beneficial. If the order is

made by a judicial hospitalization referee to whom the matter has been referred pursuant to subsection three (3) of section fifteen (15) of this Act, the respondent may appeal the referee's finding to a judge of the district court by giving the clerk notice in writing, within seven days after the referee's finding is made, that an appeal therefrom is taken. The appeal may be signed by the respondent or the respondent's next friend, guardian or attorney. When so appealed, the matter shall stand for trial de novo. Upon appeal, the court shall schedule a hearing before a district judge at the earliest practicable time.

3. A respondent committed under this section shall remain in the custody of a facility for treatment for a period of thirty days unless sooner discharged. This division shall not be construed to require the department to pay the cost of any medication or procedure provided the person during that period which is not necessary or appropriate to the specific objectives of detoxification and treatment of substance abuse. At the end of the thirty-day period, the respondent shall be discharged automatically unless the administrator of the facility before expiration of the period petitions the court for an order for the respondent's recommitment upon the grounds set forth in subsection one (1) of section fifteen (15) of this Act for a further period not to exceed ninety days.

4. A respondent recommitment under subsection three (3) of this section who has not been discharged by the facility before the end of the ninety-day period shall be discharged at the expiration of that period unless the administrator of the facility, before expiration of the period, obtains a court order on the grounds set forth in subsection one (1) of section fifteen (15) of this Act for recommitment for a further period not to exceed ninety days.

5. Upon the filing of a petition for recommitment under subsections three (3) and four (4) of this section, the court shall fix a date for hearing no later than ten days after the date the petition was filed. A copy of the petition and the notice of hearing shall be served in the same manner as an original notice on the same persons as required by subsection three (3) of section fifteen (15) of this Act. A petition shall have attached a copy of the certificate specified in this section. At the hearing the court shall proceed as provided in subsection one (1) of section fifteen (15) of this Act.

6. The court shall inform the respondent of his or her right to contest the application, to be represented by counsel at every stage of any proceedings relating to his or her commitment and recommitment, and to have counsel appointed by the court or provided by the court, if the respondent wants the assistance of counsel and is unable to obtain counsel. If the court believes that the respondent needs the assistance of counsel, the court shall require, by appointment if necessary, counsel for the respondent regardless of his or her wishes. The respondent shall be informed of his or her right to be examined by a licensed physician of his or her choice. If the respondent is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

7. The venue for proceedings under this division is the place in which a respondent resides or is present.

Sec. 17. NEW SECTION. TREATMENT--TRANSFER--DISCHARGE.

1. The director shall insure that a facility provides adequate and appropriate treatment of any respondent committed to the custody of that facility. The director may recommend to the appropriate district court the transfer of any respondent committed to the custody of a facility from that facility to another if transfer is medically advisable, and if notice is provided to the counselor advocate, and the spouse or next of kin of the respondent.

2. If the administrator of a private treatment facility consents to the request of a competent respondent who has been committed to a public facility or that respondent's parent, sibling, adult child, or guardian to accept the respondent for treatment, the administrator of the public treatment facility may transfer the respondent to the private treatment facility.

3. A respondent committed to the custody of a facility for treatment shall be discharged at any time before the end of the period for which he or she has been committed if either of the following conditions is met:

a. In case of a substance abuser committed under section fifteen (15), subsection one (1), paragraph a, of this Act that the respondent is no longer a substance abuser or the likelihood no longer exists.

b. In case of a substance abuser committed under section fifteen (15), subsection one (1), paragraph b, of this Act, that the incapacity no longer exists, that further treatment will not be likely to bring about significant improvement

in the respondent's condition, or that treatment is no longer adequate or appropriate.

4. A respondent committed under this division may at any time seek to be discharged from commitment by writ of habeas corpus.

Sec. 18. Section one hundred twenty-five point eighteen (125.18), subsection five (5), Code 1977, is amended to read as follows:

5. When on the advice of the medical staff the administrator determines that the grounds for commitment no longer exist, he or she shall discharge a person committed under this section. No person committed under this section may be detained in any treatment facility for more than five days. If a petition for involuntary commitment under ~~section 425-49~~ sections fifteen (15) through seventeen (17) of this Act has been filed within the five days and the administrator in charge of a facility finds that grounds for emergency commitment still exist, he or she may detain the person until the petition has been heard and determined, but no longer than ten days after filing the petition.

Sec. 19. Section two hundred twenty-six point twenty-three (226.23), Code 1977, is amended to read as follows:

226.23 CONVALESCENT LEAVE OF PATIENTS. Upon the recommendation of the superintendent and ~~the-written-consent of-the-district-court-which-ordered-hospitalization in~~ accordance with section two hundred twenty-nine point fifteen (229.15), subsection four (4), of the Code in the case of an involuntary patient, the state director may place on convalescent leave said patient for a period not to exceed one year, under such conditions as are prescribed by said state director.

Sec. 20. Section two hundred twenty-seven point ten (227.10), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

227.10 TRANSFERS FROM COUNTY OR PRIVATE INSTITUTIONS. Patients who have been admitted at public expense to any institution to which this chapter is applicable may be involuntarily transferred to the proper state hospital for the mentally ill in the manner prescribed by sections two hundred twenty-nine point six (229.6) through two hundred twenty-nine point thirteen (229.13) of the Code. The application required by section two hundred twenty-nine point six (229.6) may be filed by the state director or the director's designee, or by the administrator of the institution

where the patient is then being maintained or treated. If the patient was admitted to that institution involuntarily, the state director may arrange and complete the transfer, and shall report it as required of a chief medical officer under section two hundred twenty-nine point fifteen (229.15), subsection four (4) of the Code. The transfer shall be made at county expense, and the expense recovered, as provided in section two hundred twenty-seven point seven (227.7) of the Code.

Sec. 21. Section two hundred twenty-seven point eleven (227.11), Code 1977, is amended to read as follows:

227.11 TRANSFERS FROM STATE HOSPITALS. A county chargeable with the expense of a patient in a state hospital for the mentally ill shall remove such patient to a county or private institution for the mentally ill which has complied with the aforesaid rules when the state director or the director's designee so orders on a finding that said patient is suffering from chronic mental illness or from senility and will receive equal benefit by being so transferred. A county shall remove to its county care facility any patient in a state hospital for the mentally ill upon ~~a finding by a commission, consisting request~~ of the superintendent of the state hospital in which the patient is confined ~~and a physician or physicians chosen by the board of supervisors of the county of the patient's residence, said physician or physicians to be paid by the county of the patient's residence, that such patient can be properly cared for in the county care facility, and the finding of the commission, after its~~ pursuant to the superintendent's authority under section two hundred twenty-nine point fifteen (229.15), subsection four (4), of the Code, and approval by the board of supervisors of the county of the patient's residence, shall be complete authority for such removal. In no case shall a patient be thus transferred except upon compliance with section 229.14, subsection 4, or without the written consent of a relative, friend, or guardian if such relative, friend, or guardian pays the expense of the care of such patient in a state hospital.

Patients transferred to a public or private facility under this section may subsequently be placed on convalescent or limited leave or transferred to a different facility for continued full-time custody, care and treatment when, in the opinion of the attending physician or the chief medical officer of the hospital from which the patient was so transferred, the best interest of the patient would be served by such leave

or transfer. However, if the patient was originally hospitalized involuntarily, the leave or transfer shall be made in compliance with section two hundred twenty-nine point fifteen (229.15), subsection four (4) of the Code.

Sec. 22. Section two hundred twenty-seven point sixteen (227.16), Code 1977, is amended to read as follows:

227.16 STATE AID. For each patient heretofore or hereafter received on transfer from a state hospital for the mentally ill under the provisions of section 227.11, or ~~committed-to~~ placed in a county care facility by a-commission-of hospitalization the procedure prescribed in chapter two hundred twenty-nine (229) of the Code, or any mentally retarded adult patient discharged or removed from the state hospital-schools and cared for and supported by the county in the county care facility or elsewhere outside a state institution for the mentally ill or mentally retarded the county shall be entitled to receive the amount of five dollars per week for each patient from the state mental aid fund hereinafter provided for.

Sec. 23. Section two hundred thirty point two (230.2), subsection one (1), Code 1977, is amended to read as follows:

1. In the county ~~of-the-residence-of-said-commissioners~~ from which the person was placed in the hospital;

Sec. 24. Section one hundred twenty-five point nineteen (125.19), as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter seventy-four (74), section thirty (30), and sections two hundred twenty-six point six (226.6), subsection five (5), and two hundred twenty-nine point forty-four (229.44), Code 1977, are repealed.

Approved June 30, 1978

CHAPTER 1086

IOWA HOUSING FINANCE AUTHORITY

H. F. 602

AN ACT to amend the Iowa housing finance authority relating to the eligibility of applicants, property improvement loans, lease-purchase agreements, homesteading, and a loan and grant fund.

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

Section 1. Section two hundred twenty point one (220.1), subsection six (6), paragraph a, and subsection eleven (11), paragraph a, Code 1977, is amended to read as follows:

a. "Families" includes but is not limited to families

consisting of a single adult person ~~in-the-case-of-a-person~~ who is primarily responsible for his or her own support, is at least sixty-two years of age, is disabled, is handicapped, is displaced, or is the remaining member of a tenant family.

11. a. "Housing" means single family and multifamily dwellings, and facilities incidental or appurtenant to the dwellings, and includes noninstitutional residential care facilities and shall also include a modular or mobile home which is permanently affixed to a foundation and is assessed as realty.

Sec. 2. Section two hundred twenty point one (220.1), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. "Property improvement loan" means a financial obligation secured by collateral acceptable to the authority, the proceeds of which shall be used for improvement or rehabilitation of housing which is deemed by the authority to be substandard in its protective coatings or its structural, plumbing, heating, cooling, or electrical systems; and regardless of the condition of the property the term "property improvement loan" may include loans to increase the energy efficiency of housing or to finance solar or other renewable energy systems for use in that housing.

Sec. 3. Section two hundred twenty point two (220.2), subsection one (1), Code 1977, is amended to read as follows:

1. The Iowa housing finance authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions, established to undertake programs which assist in attainment of adequate housing for low or moderate income families, elderly families, families which include one or more persons who are handicapped or disabled, and the Iowa homesteading program. The powers of the authority shall be vested in and exercised by a board of nine members appointed by the governor with the approval of two-thirds of the members of the senate. No more than five members shall belong to the same political party. ~~Any individual or organization may submit the names of nominees for membership to the governor in writing within thirty days of the effective date of this section, but the governor is not bound to select the members from the nominees submitted.~~ As far as possible the governor shall include within the membership persons determined by him to who represent the following interests:

a. Community and housing development industries.

- ~~b.--Housing-finance-industries-~~
- ~~c.--Real-estate-sales-industry-~~
- ~~d.--Elderly-families-~~
- ~~e.--Minorities-~~
- ~~f.--Lower-income-families-~~
- ~~g.--Very-low-income-families-~~
- ~~h.--Handicapped-and-disabled-families-~~
- ~~i.--Average-taxpayer-~~

community and housing development industries, housing finance industries, real estate sales industry, elderly families, minorities, lower income families, very low income families, handicapped and disabled families, average taxpayers, local government, and any other person specially interested in community housing.

Sec. 4. Section two hundred twenty point four (220.4), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The authority shall exercise diligence and care in selection of projects to receive its assistance, and shall apply customary and acceptable business and lending standards in selection and subsequent implementation of such projects.

Sec. 5. Section two hundred twenty point six (220.6), subsection two (2), Code 1977, is amended to read as follows:

2. The executive director shall advise the authority on matters relating to housing and housing finance, carry out all directives from the authority, and hire and supervise the authority's staff pursuant to its directions and under the provisions of chapter 19A, except that principal administrative assistants with responsibilities in housing development, accounting, mortgage loan processing, and investment portfolio management shall be exempt.

Sec. 6. Section two hundred twenty point ten (220.10), Code 1977, is amended to read as follows:

220.10 SURPLUS MONEYS--LOAN AND GRANT FUND.

1. All moneys declared by the authority to be surplus moneys which are not required to service bonds and notes issued by the authority, to pay administrative expenses of the authority, or to accumulate necessary operating or loss reserves, shall be used by the authority to provide grants, subsidies, and services to lower income families and very low income families through any of the programs authorized in this chapter.

2. The authority may establish a loan and grant fund which may be comprised of the proceeds of appropriations, grants,

contributions, surplus moneys transferred as provided in this section and repayment of authority loans made from such fund.

Sec. 7. Section two hundred twenty point twelve (220.12), Code 1977, is amended to read as follows:

220.12 PROPERTY IMPROVEMENT LOANS AND MORTGAGE LOANS.

1. The authority may make property improvement loans and mortgage loans, including but not limited to mortgage loans insured, guaranteed, or otherwise secured by the federal government or by private mortgage insurers, to housing sponsors to provide ~~long-term financing for the purchase or re-~~ habilitation of adequate housing for low or moderate income families, elderly families, families which include one or more persons who are handicapped or disabled, and noninstitutional residential care facilities.

2. A property improvement loan or mortgage loan under this section may be made only when the authority determines that the housing sponsor is unable to obtain the necessary financing from other sources upon terms and conditions which the sponsor reasonably could be expected to fulfill.

3. The authority shall make and execute contracts with mortgage lenders for the servicing of property improvement loans and mortgage loans made under this section. The authority may pay the reasonable value of services rendered pursuant to such contracts.

4. Mortgage loans and property improvement loans shall contain terms and provisions including interest rates, and be in a form as established by rules of the authority. The authority shall require the housing sponsor to execute assurances and guarantees reasonably related to protecting the security of the mortgage loan, as the authority deems necessary.

5. In considering an application for a property improvement loan or mortgage loan under this section, the authority shall determine that the housing will be adequate and provide for the special needs of families of low or moderate income, elderly families, or families which include one or more persons who are handicapped or disabled, or will meet state standards for noninstitutional residential care facilities, and shall also give consideration to:

a. The comparative need for housing or noninstitutional residential care facilities in the area.

b. The ability of the applicant to operate, manage and maintain the proposed housing.

6. Each property improvement loan or mortgage loan shall

be subject to an agreement between the authority and the housing sponsor which will subject the housing sponsor to limitations established by the authority as to rentals and other charges, builders' and developers' profits and fees, and dispositions of interests in the property mortgaged, including provisions to prohibit assumption of a mortgage without permission of the mortgagee.

7. As a condition of a property improvement loan or mortgage loan, the authority may, upon reasonable notice, during construction or rehabilitation of the housing and during its operation:

a. Enter upon and inspect the physical condition of the premises, examine books and records of the housing sponsor, and impose fees to cover the cost of the inspections and examinations.

b. Require alterations or repairs as necessary to protect the security of its investment and the welfare of the occupants, and to insure that the housing is in conformity with applicable federal, state and local laws.

c. Require whatever action is necessary to comply with applicable federal, state and local laws, and file and prosecute a complaint or seek injunctive relief for a violation of applicable federal, state or local laws.

8. A property improvement loan or mortgage loan may be prepaid to maturity after a period of years as determined by rule of the authority, if the authority determines that the prepayment will not result in a material escalation of rents or fees charged to the occupants.

9. The authority may require as a condition of a property improvement loan that the improvements to be made therewith shall include bringing the property into compliance with thermal efficiency standards established by the state building code commissioner for existing structures or into compliance with such other thermal efficiency standards as the authority may deem appropriate.

Sec. 8. Section two hundred twenty point thirteen (220.13), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

220.13 LEASE-PURCHASE AGREEMENTS. In order to encourage eventual home ownership by low or moderate income families who are able to establish home ownership capability by showing regularity of payment and property maintenance, the authority may assist in the provision of housing to such families by means of down payment grants made pursuant to the lease-

purchase program.

1. To the extent funds are available, the authority may provide down payment grants on behalf of low and moderate income families to nonprofit sponsors to defray all or part of the down payment on real property that is transferred by such sponsors to such families under the terms of the lease-purchase program.

2. To qualify for a down payment grant, the tenant shall have occupied the property for at least one year, have performed all routine maintenance, and have made all lease or rental payments on time and in full, during the year ending on the date of transfer.

3. Not more than thirty days prior to transfer of a property, an independent appraisal of such property shall be obtained, and the down payment shall not exceed ten percent of the lesser of the appraised value or agreed upon price.

4. Such down payment grant may be collectible in full and immediately by the authority in the following cases, when the beneficiary of the grant has lived in and occupied the property for less than five continuous years.

a. If the purchaser, at any future time, resells the property to a family that is not eligible for assistance under this section.

b. If the property is totally destroyed and insurance settlement is made.

Sec. 9. Section two hundred twenty point fourteen (220.14), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

220.14 IOWA HOMESTEADING PROGRAM.

1. The Iowa homesteading program is established under the supervision of the authority to alleviate problems of slums and blighted areas, to provide for rehabilitation of deteriorating housing, and to provide the opportunity to rehabilitate and occupy such housing, to low and moderate income families, all of which are deemed to be public purposes. The authority may establish homesteading projects in any part of the state, subject to approval of the local governing body; and, in cooperation with suitable local agencies, the authority may provide financial and technical assistance to housing sponsors for the establishment and implementation of homesteading projects which meet the requirements of this chapter, and the authority may cooperate with similar local projects to provide housing.

2. Homesteading projects which meet the requirements

of this chapter may be designated by the authority as Iowa homesteading projects. The conditional and absolute conveyance of fee simple title to real property, to a homesteading applicant, shall result in the inclusion of such real property in a designated Iowa homesteading project. The result of such designation shall be the cancellation of back taxes, penalties, interest and costs of the real property pursuant to sections four hundred forty-six point thirty-nine (446.39) and five hundred sixty-nine point eight (569.8) of the Code, notwithstanding any other financial, technical or principal involvement in the property by the authority.

3. The authority may provide property improvement or mortgage loans to facilitate designated Iowa homesteading projects. Such loans may be for the purpose of financing acquisition, improvement or rehabilitation of housing included in a designated homesteading project. Such loans shall be made only upon property for which a conditional conveyance will be granted. The interest rates, security requirements and other terms of such loans shall be established by the authority and shall be as low as practical considering market conditions.

a. The housing sponsor of the designated homesteading project shall agree to:

(1) Approval of homesteading applicants on a first-in-time is first-in-right basis, unless probability of success with a subsequent applicant is substantially higher. In cases of two or more applicants for a single property, priority may be given to a resident of the city or county where the property is located, or to the applicant with the lowest income who is otherwise qualified.

(2) Assistance to approved applicants in seeking and obtaining counseling and financial assistance from appropriate sources during homesteading, and for a period of three years after the date of absolute conveyance.

(3) Conditional conveyance of unoccupied residential property to the applicant with or without any substantial consideration, which consideration may include the value of work performed by the applicant in rehabilitating the property during the period of the conditional conveyance.

(4) Arrangement of local supervision and administration of the designated homesteading project, including announced quarterly inspections of homesteads during rehabilitation.

(5) Revocation of the conditional conveyance, at option of the authority, upon any material breach of the agreement

between the housing sponsor and the authority.

(6) Repossession of property, subject to authority approval and upon proper notice and hearing unless waived in writing by the homesteading applicant, for unreasonable failure to complete rehabilitation as agreed upon at the time of conditional conveyance.

(7) Absolute conveyance of fee simple title to the applicant, upon satisfactory completion of rehabilitation and arrangement of mortgage financing from the authority or other institutions, as appropriate.

b. An approved applicant for a designated homesteading project shall:

(1) Agree to rehabilitate the property to meet applicable building or housing code standards within a two-year period after conditional conveyance. However, the two-year period may be extended for just cause.

(2) Agree to live in and occupy the homesteading property for five continuous years from the date of conditional conveyance. Such agreement may be waived by mutual agreement of the authority, the housing sponsor, and the applicant.

c. The authority may:

(1) Encourage homesteading sponsors and participating political subdivisions to coordinate approaches to neighborhood and area wide improvement through upgrading the public services and facilities through a designated Iowa homesteading project.

(2) Recommend legislation to provide appropriate exemptions from real property tax laws for properties included in a designated homesteading project.

(3) Recommend temporary suspension or temporary or permanent modification of building and housing code requirements to the extent necessary to permit safe and economical rehabilitation of housing included in a designated homesteading project.

Sec. 10. Section two hundred twenty point seventeen (220.17), unnumbered paragraphs one (1), two (2) and three (3), Code 1977, are amended to read as follows:

~~The authority may establish a fund to be known as the "emergency housing fund" to be administered by the authority separate and distinct from other moneys or funds administered by the authority.~~

~~The emergency housing fund may be comprised of the proceeds of appropriations, grants and other contributions and the authority is authorized to accept contributions to the fund from any source.~~

The ~~emergency-housing-fund~~ authority may be used to make grants and temporary loans at interest rates and terms as determined by the authority, for the following purposes:

Sec. 11. Section two hundred twenty point eighteen (220.18), Code 1977, is amended to read as follows:

220.18 SPECIAL HOUSING ASSISTANCE FUND. ~~The authority may establish a revolving fund to be known as the "housing assistance fund", to be administered by the authority as a trust fund separate and distinct from other moneys or funds administered by the authority.~~

~~The housing assistance fund may be comprised of the proceeds of appropriations, grants and other contributions, earnings accruing to the authority, surplus moneys transferred as provided in section 220.10, and of fund notes issued by the authority as provided in section 220.19, and the authority is authorized to accept contributions to the fund from any source.~~

1. The housing assistance fund authority may be used to make temporary loans at interest rates and terms as determined by the authority, ~~for the following purposes:~~

~~1. To~~ to defray development costs for housing for low or moderate income families provided by housing sponsors. A "development cost" loan shall be repaid in full by the borrower concurrent with obtaining a construction loan, unless the authority extends the period for repayment, but the period for repayment shall not be extended beyond the date of obtaining a mortgage loan on the housing. As used in this section, "development costs" means the costs approved by the authority as appropriate expenditures which may be incurred by builders and developers prior to commitment and initial advance of the proceeds of a construction loan or a mortgage loan, including but not limited to:

a. Payments for options to purchase properties on the proposed housing site, deposits on contracts of purchase, or, with approval of the authority, payments for the purchasing of such properties.

b. Legal and organizational expenses including payment of attorney fees, project manager, clerical and other staff salaries, office rent and other incidental expenses.

c. Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work.

d. Expenses for tenant surveys and market analysis.

e. Necessary application and other fees.

2. ~~To~~ The authority may make or participate in the making

of property improvement loans or mortgage loans for rehabilitation or preservation of existing dwellings for the use of low or moderate income families, elderly families or families which include one or more persons who are handicapped or disabled. A rehabilitation or preservation loan may be for the estimated cost of the rehabilitation work to be done, for the purpose of refinancing an existing mortgage loan, for the purpose of doing the rehabilitation work, or for the purpose of acquiring housing in which rehabilitation work is to be done. The rehabilitation or preservation loan shall not exceed, with all other existing indebtedness of the property, the estimated market value of the property as determined by the authority, after the rehabilitation or preservation is completed, and the term of a loan shall not exceed the estimated useful life of the property as determined by the authority, after rehabilitation or preservation. The proposed rehabilitation or preservation shall assure that the property will not contain any substantial violation of applicable housing codes. A rehabilitation or preservation loan under this subsection may be made only when the authority determines that the proposed mortgagor is unable to obtain the necessary financing from other sources upon terms and conditions which the proposed mortgagor reasonably could be expected to fulfill. A rehabilitation or preservation loan under this subsection may be provided only within an area of a city for which an authorized city agency submits a satisfactory affirmative neighborhood preservation program, or in other areas within or outside of cities where the authority determines that rehabilitation or preservation is economically sound and a program of neighborhood preservation is inappropriate. The following criteria, along with others reasonably related to the purposes of this chapter, which may be determined by the authority, shall be considered in determining whether an affirmative neighborhood preservation program is satisfactory:

- a. The degree of blight, decay or deterioration of housing or the imminent threat of blight, decay or deterioration of housing within the area.
- b. The degree to which financing for repairs, remodeling or rehabilitation of housing within the area is available.
- c. The proportion of residential structures within the area which are owner-occupied.
- d. The degree to which the financial resources of pro-

posed occupants of the housing, including resources available to them under this chapter or other federal, state, and local laws and programs, provide reasonable assurances of the economic feasibility of the financing of rehabilitation or preservation.

e. The expressed commitment of the city to provide a concentrated effort to enforce the applicable housing codes within the area.

f. The expressed commitment of the city to provide capital improvements and other city services so as to stabilize, improve and restore the neighborhood.

Sec. 12. Section two hundred twenty point twenty-one (220.21), Code 1977, is amended by striking subsection eight (8).

Sec. 13. Section two hundred twenty point twenty-six (220.26), subsection one (1), Code 1977, is amended to read as follows:

1. The authority may issue its negotiable bonds and notes in principal amounts as, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. However, the authority may not have a total principal amount of bonds and notes outstanding at any time in excess of ~~one~~ two hundred fifty million dollars. The bonds and notes shall be deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

Sec. 14. Section two hundred twenty point twenty-six (220.26), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The authority may make or participate in the making of loans to housing sponsors to provide interim construction financing for the construction or rehabilitation of adequate housing for low or moderate income persons or families, elderly persons or families, and persons or families which include one or more persons who are handicapped or disabled, and of noninstitutional residential care facilities. An interim construction loan may be made under this section only if the loan is the subject of a commitment from an agency or instrumentality of the United States government or from the authority, to provide long-term financing for the mort-

gage loan and interim construction advances made under the interim construction loan will be insured or guaranteed by an agency or instrumentality of the United States government.

Sec. 15. Section two hundred twenty point twenty-seven (220.27), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The authority shall cause to be delivered to the legislative fiscal committee within ninety (90) days of the close of its fiscal year its annual report certified by an independent certified public accountant (who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority) selected by the authority. In the event that the principal amount of any bonds or notes deposited in a bond reserve fund is withdrawn for payment of principal or interest thereby reducing the amount of that fund to less than the bond reserve fund requirement, the authority shall immediately notify the general assembly of this event and shall thereafter take steps to restore such bond reserve to the bond reserve fund requirement for that fund from any amounts available, other than principal of a bond issue, which are not pledged to the payment of other bonds or notes.

Approved June 22, 1978

CHAPTER 1087

SUBSTANCE ABUSE TREATMENT, MENTAL HEALTH, NURSE EXAMINERS, MEDICAL EXAMINERS, AND MENTAL HEALTH ADVISORY COUNCIL

H. F. 2440

AN ACT relating to and appropriating funds for designated health programs including substance abuse, mental health, continuing education for health practitioners and funds for autopsies of suspected victims of sudden infant death syndrome.

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

Section 1. There is appropriated from the general fund of the state to the Iowa department of substance abuse for the fiscal period commencing July 1, 1978 and ending June

30, 1979 the sum of one million five hundred sixty-two thousand two hundred fifty-eight (1,562,258) dollars or so much thereof as may be necessary to fund substance abuse treatment grants. Funds appropriated by this section shall be reduced by the amount of funds distributed to the department pursuant to subsection one (1) of section six (6) of this Act. The amount of funds by which the appropriation is reduced shall be deposited in the general fund of the state.

Sec. 2. There is appropriated from the general fund of the state to the Iowa department of substance abuse for the fiscal year commencing July 1, 1978 and ending June 30, 1979 the following amounts or so much thereof as may be necessary to be used for the purposes designated:

1. For substance abuse programming for the elderly at the mental health institute at Independence, Iowa.....\$18,000
2. For the development of educational programs designed to prevent substance abuse.....\$40,000

It is the intent of the general assembly that the Iowa department of substance abuse shall encourage the development of educational programs designed to prevent substance abuse and the forty thousand (40,000) dollars appropriated in subsection two (2) of this section shall be used to fund continued development and implementation of substance abuse education programs in the department of public instruction.

*** Sec. 3. NEW SECTION. SUBSTANCE ABUSE REHABILITATION AND PREVENTION FUND CREATED. There is established in the office of the treasurer of state a fund to be known as the substance abuse rehabilitation and prevention fund. The substance abuse rehabilitation and prevention fund shall consist of revenues derived from substance abuse rehabilitation and prevention taxes imposed by sections four (4) and five (5) of this Act and any other moneys appropriated to the fund. ***

*** Sec. 4. NEW SECTION. BARREL TAX ON BEER. There shall be levied and collected from class "A" beer permittees a substance abuse rehabilitation and prevention tax on all beer manufactured for sale and sold in the state at wholesale and on all imported beer sold at wholesale in this state at the rate of one dollar for every barrel containing thirty-one gallons, and at the same rate for any other quantity or for the fractional part of a barrel. A tax shall not be levied

or collected on beer shipped outside this state by a class "A" permittee or sold by one class "A" permittee to another class "A" permittee. All of the provisions of chapter one hundred twenty-three (123) of the Code relating to the administration of the barrel tax on beer shall apply to the tax imposed by this section, except that the taxes collected pursuant to this section shall be remitted to the treasurer of state and shall be deposited in the substance abuse rehabilitation and prevention fund, and except that the barrel tax rebate shall not apply to the substance abuse rehabilitation and prevention tax. The tax imposed by this section shall be in addition to any other taxes imposed by law. ***

***Sec. 5. NEW SECTION. LIQUOR TAX.

1. There is imposed upon the purchase of alcoholic beverages in this state a tax at the rate of two percent of the purchase price of such alcoholic beverages. The tax shall be collected from persons purchasing alcoholic beverages at the time of purchase of alcoholic beverages from the state. The tax imposed by this section shall be in addition to any other taxes imposed by law.

2. Notwithstanding any provision of chapter one hundred twenty-three (123) of the Code, all revenues derived from the tax imposed by this section shall be remitted monthly by the Iowa beer and liquor control department to the treasurer of state and shall be deposited in the substance abuse rehabilitation and prevention fund. ***

***Sec. 6. NEW SECTION. ALLOCATION OF REVENUE.

1. The treasurer of state shall distribute quarterly one-half of the revenues derived pursuant to sections four (4) and five (5) of this Act to the Iowa department of substance abuse.

2. a. The treasurer of state shall allocate one-half of the revenues derived pursuant to sections four (4) and five (5) of this Act to each county treasurer in an amount determined by dividing the total population of each county by the total population of the state according to the latest certified census.

b. The board of supervisors of each county shall certify to the treasurer of state a claim for that county's allocated funds. The claim shall be based upon actual payments for substance abuse care, maintenance, and treatment made by the

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county to any facility as defined in section one hundred twenty-five point two (125.2) of the Code.

c. If at the end of the third quarter of each fiscal year a county does not spend all of its allocation, the balance of that allocation shall be reallocated by the treasurer of state in accordance with paragraph a of this subsection.

d. At the end of the fourth quarter of each fiscal year all moneys remaining in the substance abuse rehabilitation and prevention fund shall be reverted to the general fund of the state.

3. Any other moneys deposited in the substance abuse rehabilitation and prevention fund shall be allocated equally as provided in subsections one (1) and two (2) of this section.

4. Warrants for the payment of funds pursuant to this section shall be issued by the state comptroller upon certification of the treasurer of state. ***

***Sec. 7. NEW SECTION. USE OF REVENUE.

1. Revenues distributed pursuant to the provisions of section six (6), subsection one (1), of this Act shall be used, subject to the limitation contained in subsection two (2) of this section, for the following purposes:

a. The administrative expenses, excluding salaries, of the Iowa department of substance abuse.

b. Any program or service authorized under chapter one hundred twenty-five (125) of the Code.

c. The implementation of new substance abuser treatment procedures and services.

d. The matching of any other county expenses for the care, maintenance and rehabilitation of substance abusers by the Iowa department of substance abuse.

2. Moneys contained in the fund created by section three (3) of this Act except those moneys specified in section six (6), subsection two (2), of this Act, shall not be distributed or allocated for rehabilitative and preventive services or treatment, care and maintenance for substance abuse rendered by the mental health institutes under the control of the department of social services. All billings to counties from mental health institutes for such treatment, care, and maintenance shall specify the exact amount billed for substance abuse treatment, prevention, and detoxification.***

Sec. 8. Chapter one hundred twenty-five (125), Code 1977, as amended by Acts of the Sixty-seventh General Assembly,

1977 Session, chapter seventy-four (74), is amended by adding the following new section:

NEW SECTION. APPROVAL OF FACILITY BUDGET.

1. Before making any allocation of funds to a local substance abuse program, the commission on substance abuse shall require the following to be submitted for each program:

a. A detailed line item budget clearly indicating the funds received from each revenue source for the fiscal year for which the funds are requested on forms provided by the department of substance abuse.

b. A certified statement from the auditor of each county participating in the program as to the amount of county resources committed to the program for the fiscal year for which the funds are requested.

2. The commission shall adopt rules governing the approval of line item budgets for the operation of facilities. The rules shall include provisions for the approval of a facility's budget by the counties funding the facility and by the department. The rules shall also include provisions for appeal to the commission by any county which disagrees with the amount of a facility's budget approved by the department.

Sec. 9. There is appropriated from the general fund of the state to the following agencies for the fiscal year commencing July 1, 1978 and ending June 30, 1979 the following amounts to be used for the purposes designated:

	1978-1979 <u>Fiscal Year</u>
1. IOWA MENTAL HEALTH	
AUTHORITY	
For salaries, support, maintenance and miscellaneous purposes	\$108,659
2. BOARD OF NURSE	
EXAMINERS	
For continuing education	\$ 15,000
3. BOARD OF MEDICAL	
EXAMINERS	
For continuing education	\$ 11,761

Sec. 10. There is appropriated from the general fund of the state to the state department of health for the fiscal year commencing July 1, 1978 and ending June 30, 1979, the sum of thirty thousand (30,000) dollars, or so much thereof as may be necessary, to be used to reimburse counties for

expenses resulting from autopsies of suspected victims of sudden infant death syndrome in accordance with procedures specified in House File 33 as enacted by the Sixty-seventh General Assembly, 1978 Session.

Sec. 11. Section two hundred thirty A point nine (230A.9), subsection three (3), Code 1977, is amended to read as follows:

3. At intervals specified by the county board of supervisors, not less often than once each ninety days, the county treasurer of each county served by the center shall notify the ~~chairman~~ chairperson of the center's board of trustees of all amounts due the center from the county which have not previously been paid over to the treasurer of the center. The ~~chairman~~ chairperson shall then file a claim for payment as specified in sections 331.20, 333.2 and 334.1 to 334.7. The provisions of section three hundred thirty-one point twenty-one (331.21) notwithstanding, no such claims shall include information which in any manner identifies an individual who is receiving or has received treatment at the center.

Sec. 12. Section two hundred thirty A point thirteen (230A.13), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Release of information which would identify an individual who is receiving or has received treatment at a community mental health center shall not be made a condition of support of that center by any county under this section. The provisions of section three hundred thirty-one point twenty-one (331.21) notwithstanding, a community mental health center shall not be required to file a claim which would in any manner identify such an individual, if the center's budget has been approved by the county board under this section and the center is in compliance with section two hundred thirty A point sixteen (230A.16), subsection three (3), of the Code.

*** Sec. 13. EFFECTIVE DATES.

1. The provisions of this Act, except section six (6) of this Act, shall be effective July 1, 1978.

2. The provisions of section six (6) of this Act shall be effective January 1, 1979, and on that date the treasurer of state shall allocate the moneys credited to the substance abuse rehabilitation and prevention fund during the fiscal period beginning July 1, 1978 and ending December 31, 1978 to the Iowa department of substance abuse and the counties

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of the state as provided in section six (6) of this Act.***

Sec. 14. The objective of sections fifteen (15) through twenty-one (21) of this Act is to continue and to strengthen the mental health services now available in the state of Iowa, to make these services uniformly and conveniently available to all residents of this state, and to assure the continued high quality of these services. The purpose of sections fifteen (15) through twenty-one (21) of this Act is to begin efforts to achieve that objective. It is the intent of sections fifteen (15) through twenty-one (21) of this Act that more detailed proposals for the achievement of that objective shall be formulated and delivered to the first session of the Sixty-eighth General Assembly.

Sec. 15.

1. A unified state mental health agency having broad responsibility both to plan, coordinate and review the delivery of mental health services in this state, and to directly deliver certain mental health services, shall be established effective July 1, 1979. The title, administrative structure, and specific powers and duties of the unified state mental health agency shall be as prescribed by the 1979 Session of the Sixty-eighth General Assembly.

2. If the governor determines that it would not be in the best interest of the state for subsection one (1) of this section to be implemented on July 1, 1979, or if legislation prescribing the title, administrative structure, and specific powers and duties of the unified state mental health agency has not been approved prior to that date, the governor may by executive order delay the implementation of that subsection to a date not later than July 1, 1980.

Sec. 16.

1. There is established a state mental health advisory council consisting of eleven members appointed by the governor, who shall designate, subject to senate confirmation, four of the initial appointees under this subsection to serve terms expiring June 30, 1981, four to serve terms expiring June 30, 1980 and three to serve terms expiring June 30, 1979. Successors to the initial appointees under this section shall each serve a term of three years beginning July first of the year of appointment. Vacancies shall be filled by the appropriate appointing authority for the balance of the unexpired term. Members of the advisory council who are not

***Item veto

state employees shall be entitled to forty dollars per diem for each day devoted to the duties of their office, and all members shall be entitled to reimbursement for actual and necessary expenses incurred in attending meetings of the advisory council or in otherwise discharging their duties. The governor shall make appointments to the advisory council so that, if possible, the composition of the council will comply with the pertinent requirements of United States Public Law ninety-four dash sixty-three (P.L. 94-63).

2. The council shall:

a. As soon as possible after July first of each year, organize by selection of a chairperson and a vice chairperson from among its members.

b. Meet at least four times a year, and may meet more often, upon the call of the chairperson or the written request of any five members.

c. Advise the responsible officials and agencies of this state on establishment and implementation of policies and programs in furtherance of the objectives stated in section fourteen (14) of this Act.

d. Exercise all functions and have all responsibilities of the state mental health advisory council under United States Public Law ninety-four dash sixty-three (P.L. 94-63), unless any such function or responsibility is assigned elsewhere by, or would be contrary to, the laws of this state.

e. Beginning upon the date on which the transfer of duties, functions and programs required by section fifteen (15), subsection one (1) of this Act takes effect, and continuing until otherwise provided by law, exercise any functions assigned by law to the committee on mental hygiene established by section two hundred twenty-five B point two (225B.2), Code 1977.

3. The council, with the advice and assistance of the director of the department of mental health resources and the director of the Iowa mental health authority, shall expeditiously prepare and promulgate administrative rules governing the kind and quality of services which must be offered by an alternative diagnostic facility in performing preliminary diagnostic evaluations under arrangements concluded pursuant to section twenty (20) of this Act. The objective of these rules shall be to make such evaluations at least equivalent to those performed by community mental health centers in terms of both professional quality and orientation

to the best interests of the person being evaluated and of the county.

4. The council shall consider, and may make recommendations regarding, the most desirable form of permanent organization for the unified state mental health agency, referred to in section fifteen (15), subsection one (1) of this Act.

Sec. 17. It is the policy of this state that, to the greatest extent feasible, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation by a community mental health center has confirmed that the admission is appropriate to that person's needs, and that no suitable alternative method of providing the services needed by that person in a less restrictive setting, or in or nearer to the person's home community, is currently available. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections eighteen (18), nineteen (19) and twenty (20) of this Act.

Sec. 18. The board of supervisors of any county may by resolution require that the policy stated by section seventeen (17) of this Act be followed with respect to admission of persons from that county to any state mental health institute. Upon adoption of such a resolution by the board of supervisors of a county which is supporting a community mental health center, directly or in affiliation with other counties, it shall be presumed to be a part of that center's responsibilities to perform the preliminary diagnostic evaluations required by that county in order to implement the policy stated by section seventeen (17) of this Act. However, if performance of such evaluations is not covered by the agreement entered into by the county and the center under section two hundred thirty A point twelve (230A.12) of the Code, and the center's director certifies to the county board of supervisors that the center does not have the capacity to perform the needed evaluations, the board of supervisors may proceed as provided by section twenty (20) of this Act.

Sec. 19. When the board of supervisors of any county has adopted a resolution as authorized by section eighteen (18) of this Act:

1. The chief medical officer of a state mental health institute, or that officer's physician designee, shall advise any person residing in that county who applies for voluntary admission, or any person applying for the voluntary admission

of another person who resides in that county, in accordance with section two hundred twenty-nine point forty-one (229.41) of the Code that the board of supervisors has acted to implement the policy stated by section seventeen (17) of this Act, and shall advise that a preliminary diagnostic evaluation of the proposed patient be sought from the appropriate community mental health center or alternative diagnostic facility, if that has not already been done. This subsection shall not apply when voluntary admission is sought in accordance with section two hundred twenty-nine point forty-one (229.41) of the Code under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency within the meaning of section two hundred twenty-nine point two (229.2), subsection two (2), paragraph a of the Code.

2. The clerk of the district court in that county shall refer any person applying for authorization for voluntary admission, or for authorization for voluntary admission of another person, in accordance with section two hundred twenty-nine point forty-two (229.42) of the Code to the appropriate community mental health center or alternative diagnostic facility for preliminary diagnostic evaluation unless the applicant furnishes a written statement from that center or facility that such an evaluation has been performed and indicates that the person's admission to a state mental health institute is appropriate. This subsection shall not apply when authorization for voluntary admission is sought under circumstances which, in the opinion of the mental health institute's chief medical officer or that officer's physician designee, constitute a medical emergency within the meaning of section two hundred twenty-nine point two (229.2), subsection two (2), paragraph a of the Code.

3. Judges of the district court in that county, or the judicial hospitalization referee appointed for that county, as the case may be, shall so far as possible arrange for a physician on the staff of or designated by the appropriate community mental health center or alternative diagnostic facility to perform each prehearing examination of a respondent required under section two hundred twenty-nine point eight (229.8), subsection three (3), paragraph b of the Code.

4. The chief medical officer of a state mental health institute shall promptly submit to the appropriate community

mental health center or alternative diagnostic facility a report of each voluntary admission of a patient under the medical emergency clauses of subsections one (1) and two (2) of this section. The report shall explain the nature of the emergency which necessitated the admission of the patient without a preliminary diagnostic evaluation by the center or alternative facility.

5. When the proposed admission of a person to a state mental health institute, on either a voluntary or an involuntary basis, is primarily for treatment of alcoholism or drug abuse, each reference to a community mental health center or alternative diagnostic facility in subsections one (1) through four (4) of this section may be deemed a reference to a facility as defined in section one hundred twenty-five point two (125.2), subsection two (2) of the Code as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter seventy-four (74), section three (3). However, this subsection shall not be construed so as to contravene the last sentence of section one hundred twenty-five point nineteen (125.19), subsection one (1), as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter seventy-four (74), section thirty (30).

Sec. 20. If the board of supervisors of a county desires to implement the policy stated by section seventeen (17) of this Act, but the county is not served by a community mental health center having the capacity to perform the required preliminary diagnostic evaluations, the board may arrange for such evaluations to be performed by an alternative diagnostic facility. An alternative diagnostic facility may be the outpatient service of a state mental health institute or any other mental health facility or service able to furnish the requisite professional skills to properly perform preliminary diagnostic evaluation of a person whose admission to a state mental health institute is being sought or considered on either a voluntary or an involuntary basis.

Sec. 21. Chapter two hundred twenty-five B (225B) and sections two hundred seventeen point ten (217.10), two hundred seventeen point eleven (217.11) and two hundred seventeen point twelve (217.12), Code 1977, are repealed effective July 1, 1979. However, if the implementation of subsection one (1) of section fifteen (15) of this Act is delayed pursuant to subsection two (2) of that section, the division of mental

health resources of the department of social services and the Iowa mental health authority shall continue to be governed by the provisions of the statutes repealed by this section as if they were in full force and effect, until subsection one (1) of section fifteen (15) of this Act is implemented. On that date, in the absence of any prior legislative action to the contrary, the powers and duties assigned the Iowa mental health authority by chapter two hundred twenty-five B (225B), Code 1977, and by any other statutes referring to the Iowa mental health authority, and the powers and duties assigned the division of mental health of the department of social services by sections two hundred seventeen point ten (217.10), two hundred seventeen point eleven (217.11) and two hundred seventeen point twelve (217.12), Code 1977, and by any other statutes referring to that division of the department of social services, shall all be transferred to and imposed upon the unified state mental health agency established by subsection one (1) of section fifteen (15) of this Act.

Sec. 22. All federal grants to and the federal receipts of the agencies appropriated funds under this Act are appropriated for the purposes set forth in the federal grants or receipts.

Approved June 13, 1978 except the items designated as Sections 3,4,5,6,7 and 13 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit to you House File 2440, an act relating to and appropriating funds for designated health programs including substance abuse, mental health, continuing education for health practitioners and funds for autopsies of suspected victims of sudden infant death syndrome.

House File 2440 is approved June 13, 1978, with the following exceptions which I hereby disapprove.

I am unable to approve Item 3 designated as Section 3 in the Act which reads as follows:

Sec. 3. NEW SECTION. SUBSTANCE ABUSE REHABILITATION AND PREVENTION FUND CREATED. There is established in the office of the treasurer of state a fund to be known as the substance abuse rehabilitation and prevention fund. The substance abuse rehabilitation and prevention fund shall consist of revenues derived from substance abuse rehabilitation and prevention taxes imposed by sections four (4) and five (5) of this Act and any other moneys appropriated to the fund.

I am unable to approve Item 4 designated as Section 4 in the Act which reads as follows:

Sec. 4. NEW SECTION. BARREL TAX ON BEER. There shall be levied and collected from class "A" beer permittees a substance abuse rehabilitation and prevention tax on all beer manufactured for sale and sold in the state at wholesale and on all imported beer sold at wholesale in this state at the rate of one dollar for every barrel containing thirty-one gallons, and at the same rate for any other quantity or for the fractional part of a barrel. A tax shall not be levied or collected on beer shipped outside this state by a class "A" permittee or sold by one class "A" permittee to another class "A" permittee. All of the provisions of chapter one hundred twenty-three (123) of the Code relating to the administration of the barrel tax on beer shall apply to the tax imposed by this section, except that the taxes collected pursuant to this section shall be remitted to the treasurer of state and shall be deposited in the substance abuse rehabilitation and prevention fund, and except that the barrel tax rebate shall not apply to the substance abuse rehabilitation and prevention tax. The tax imposed by this section shall be in addition to any other taxes imposed by law.

I am unable to approve Item 5 designated as Section 5 in the Act which reads as follows:

Sec. 5. NEW SECTION. LIQUOR TAX

1. There is imposed upon the purchase of alcoholic beverages in this state a tax at the rate of two percent of the purchase price of such alcoholic beverages. The tax shall be collected from persons purchasing alcoholic beverages at the time of purchase of alcoholic beverages from the state. The tax imposed by this section shall be in addition to any other taxes imposed by law.

2. Notwithstanding any provision of chapter one hundred twenty-three (123) of the Code, all revenues derived from the tax imposed by this section shall be remitted monthly by the Iowa beer and liquor control department to the treasurer of state and shall be deposited in the substance abuse rehabilitation and prevention fund.

I am unable to approve Item 6 designated as Section 6 in the Act which reads as follows:

Sec. 6. NEW SECTION. ALLOCATION OF REVENUE.

1. The treasurer of state shall distribute quarterly one-half of the revenues derived pursuant to sections four (4) and five (5) of this Act to the Iowa department of substance abuse.
2. a. The treasurer of state shall allocate one-half of the revenues derived pursuant to sections four (4) and five (5) of this Act to each county treasurer in an amount determined by dividing the total population of each county by the total population of the state according to the latest certified census.
 - b. The board of supervisors of each county shall certify to the treasurer of state a claim for that county's allocated funds. The claim shall be based upon actual payments for substance abuse care, maintenance, and treatment made by the county to any facility as defined in section one hundred twenty-five point two (125.2) of the Code.
 - c. If at the end of the third quarter of each fiscal year a county does not spend all of its allocation, the balance of that allocation shall be reallocated by the treasurer of state in accordance with paragraph a of this subsection.
 - d. At the end of the fourth quarter of each fiscal year all moneys remaining in the substance abuse rehabilitation and prevention fund shall be reverted to the general fund of the state.
3. Any other moneys deposited in the substance abuse rehabilitation and prevention fund shall be allocated equally as provided in subsections one (1) and two (2) of this section.
4. Warrants for the payment of funds pursuant to this section shall be issued by the state controller upon certification of the treasurer of state.

I am unable to approve Item 7 designated as Section 7 in the Act which reads as follows:

Sec. 7. NEW SECTION. USE OF REVENUE

1. Revenues distributed pursuant to the provisions of section six (6), subsection one (1), of this Act shall be used, subject to the limitation contained in subsection two (2) of this section, for the following purposes:
 - a. The administrative expenses, excluding salaries, of the Iowa department of substance abuse.
 - b. Any program or service authorized under chapter one hundred twenty-five (125) of the Code.
 - c. The implementation of new substance abuser treatment procedures and services.
 - d. The matching of any other county expenses for the care, maintenance and rehabilitation of substance abusers by the Iowa department of substance abuse.
2. Moneys contained in the fund created by section three (3) of this Act except those moneys specified in section six (6), subsection two (2), of this Act, shall not be distributed or allocated for rehabilitative and preventive services or treatment, care and maintenance for substance abuse rendered by the mental health institutes under the control of the department of social services. All billings to counties from mental health institutes for such treat-

ment, care, and maintenance shall specify the exact amount billed for substance abuse treatment, prevention and detoxification.

I am unable to approve Item 13 designated as Section 13 in the Act which reads as follows:

Sec. 13. EFFECTIVE DATES.

1. The provisions of this Act, except section six (6) of this Act, shall be effective July 1, 1978.

2. The provisions of section six (6) of this Act shall be effective January 1, 1979, and on that date the treasurer of state shall allocate the moneys credited to the substance abuse rehabilitation and prevention fund during the fiscal period beginning July 1, 1978 and ending December 31, 1978 to the Iowa department of substance abuse and the counties of the state as provided in section six (6) of this Act.

On July 13, 1977, I vetoed Senate File 31 of the 67th General Assembly. This bill established an earmarked liquor tax as its primary provision, a tax which I could not approve for reasons listed in that message. Certain provisions of House File 2440 establish such a tax again, and again I disapprove it. This should be no surprise to anyone inasmuch as I stated repeatedly during the legislative session that I did not approve of this approach.

From the very beginning of our administration we have supported alcoholism and drug abuse treatment, prevention and educational programs. During my administration, we created a Drug Abuse Authority and originated the first state-supported, statewide treatment program for alcoholism. Just recently the Division on Alcoholism and the Iowa Drug Abuse Authority were merged to form the Iowa Department of Substance Abuse. Under the auspices of this new agency, we have moved to meet the needs created by substance abuse. Our budget recommendations for the next year, which were adopted by the legislature, will fund existing alcoholism and drug abuse treatment programs and allow cost-of-living increases.

There are major reasons for disapproving the earmarked tax contained in House File 2440. If this bill became law, both the Governor and the General Assembly would be precluded from budget oversight of substance abuse programs. The moneys derived from the additional tax would bypass normal channels and go directly to the Department of Substance Abuse for distribution. I believe tax funds collected by the state should be part of budget procedures. If they are not, the elected representatives of the people lose their ability to direct and contain the size of government and to maintain a watchful eye on the quality and fiscal soundness and performance of its activities.

The half of the proposed tax which would be distributed to the counties would be sent out on an arbitrary per capita basis regardless of need and prior to any budgetary planning. This approach would create a tremendous increase in spending much of which might easily be misdirected and not be responsive to demonstrated local needs. In our most heavily-populated county, Polk, the proceeds of the tax would only cover a fraction of current spending, while other counties which are currently spending nothing or very little would receive thousands of dollars more than current expenditures--without sufficient plans to use wisely the new tax money.

The new Department of Substance Abuse is in the process of establishing quality and cost controls. I believe that these controls ought to be in place and that the information they provide should be analyzed and understood before decisions are made on major changes in funding mechanisms.

The merger of the Division on Alcoholism and the Iowa Drug Abuse Authority has resulted in more efficiency and some immediate economies, with a total of ten slots being removed from the tables of organization. The quality and cost controls which are being formulated, several of which are already operational, will add to the decision-making capacity of the Department and the executive and legislative branches of government. Major elements of the fiscal controls include line item budgeting, estimates of income, monthly expenditure reports and public hearings. Quality controls being established by the Department which include licensing standards for each program, pre-license inspections of each program and review inspections will determine whether programs are assisting clients in abstaining from alcohol and drugs, what the goals and objectives of the programs are, and the success rates in achieving them.

Thus, to get a handle on how much needs to be spent in the future, several new sources of information will be available which we have never had before:

- Program line item budgets
- Income projections
- Client information and service system
- Program goals and objectives

Estimates of future needs and expenditures, then, will be made on a history of proven needs, income, and ability to meet goals and objectives. As the quality and cost data are assembled, we will continue to respond to the needs that the data indicate.

This is a far more useful and responsible way to determine spending for substance abuse programs than an earmarked tax which would distribute funds on an arbitrary basis and would not respond to thoughtful planning and programming.

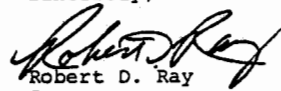
The proposed tax increase was touted as offering property tax relief since it would pay for treatment programs currently funded partially from local sources. This is a misleading argument. There is nothing in this bill which requires a reduction in the property tax. The county officers who discussed this matter with my office indicated that there were no plans to reduce property taxes upon receipt of the earmarked funds. They instead would use the increased funds for either expanded substance abuse programs or for other local expenditures.

Finally, there are possibilities of new funds for substance abuse programs, including a three-year project under which Blue Cross/Blue Shield will offer coverage for substance abusers, coverage for local treatment for eligible veterans, funds which are available to programs from Sunday beer licensee fees and the new returnable beverage container bill, and a client fee schedule.

If a new source of funds is needed in the future, there should be a mechanism to take into account the individuality of each program, the need for state funds to be appropriated through regular budget procedures, and the necessity for accountability and constraint in the use of public funds.

For the above reasons, I hereby disapprove the aforementioned six items in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 2440 are hereby approved as of this date.

Sincerely,


Robert D. Ray
Governor

CHAPTER 1088
JUVENILE JUSTICE

H. F. 248

AN ACT relating to a complete revision of the juvenile justice laws and subjecting persons to existing penalties.

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

DIVISION I

Section 1. NEW SECTION. RULES OF CONSTRUCTION. This chapter shall be liberally construed to the end that each child under the jurisdiction of the court shall receive, preferably in his or her own home, the care, guidance and control that will best serve the child's welfare and the best interest of the state. When a child is removed from the control of his or her parents, the court shall secure for the child care as nearly as possible equivalent to that which should have been given by the parents.

DEFINITIONS

Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act unless the context otherwise requires:

1. "Abandonment of a child" means the permanent relinquishment or surrender, without reference to any particular person, of the parental rights, duties, or privileges inherent in the parent-child relationship. Proof of abandonment must include both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over any particular period of time.
2. "Adjudicatory hearing" means a hearing to determine if the allegations of a petition are true.
3. "Adult" means a person other than a child.
4. "Child" means a person under eighteen years of age.
5. "Child in need of assistance" means an unmarried child:
 - a. Whose parent, guardian or other custodian has abandoned the child.
 - b. Whose parent, guardian or other custodian has physically abused or neglected the child, or is imminently likely to abuse or neglect the child.
 - c. Who has suffered or is imminently likely to suffer harmful effects as a result of:
 - (1) Conditions created by the child's parent, guardian, custodian; or

(2) The failure of the child's parent, guardian, or custodian to exercise a reasonable degree of care in supervising the child.

d. Who has been sexually abused by his or her parent, guardian, custodian or other member of the household in which the child resides.

e. Who is in need of medical treatment to cure, alleviate, or prevent serious physical injury or illness and whose parent, guardian or custodian is unwilling or unable to provide such treatment.

f. Who is in need of treatment to cure or alleviate serious mental illness or disorder, or emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior toward self or others and whose parent, guardian, or custodian is unwilling or unable to provide such treatment.

g. Whose parent, guardian, or custodian fails to exercise a minimal degree of care in supplying the child with adequate food, clothing or shelter or refuses other means made available to provide such essentials.

h. Who has committed a delinquent act as a result of pressure, guidance, or approval from a parent, guardian, or custodian.

i. Who has been the subject of or a party to sexual activities for hire or who poses for live display or for photographic or other means of pictorial reproduction or display which is designed to appeal to the prurient interest and is patently offensive; and taken as a whole, lacks serious literary, scientific, political or artistic value.

j. Who is without a parent, guardian or other custodian.

k. Whose parent, guardian, or other custodian for good cause desires to be relieved of his or her care and custody.

l. Who for good cause desires to have his or her parents relieved of his or her care and custody.

6. "Commissioner" means the commissioner of the department of social services or that person's designee.

7. "Complaint" means a verbal or written report which is made to the juvenile court by any person and alleges that a child is within the jurisdiction of the court.

8. "Court" means the juvenile court established in chapter two hundred thirty-one (231) of the Code.

9. "Criminal justice agency" means any agency which has as its primary responsibility the enforcement of the state's

criminal laws or of local ordinances made pursuant to state law.

10. "Custodian" means a step-parent or a relative within the fourth degree of consanguinity to a minor child who has assumed responsibility for that child, a person who has accepted a release of custody pursuant to division four (IV), or a person appointed by a court or juvenile court having jurisdiction over a child. The rights and duties of a custodian with respect to a child shall be as follows:

- a. To maintain or transfer to another the physical possession of that child.
- b. To protect, train, and discipline that child.
- c. To provide food, clothing, housing, and medical care for that child.
- d. To consent to emergency medical care, including surgery.
- e. To sign a release of medical information to a health professional.

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

11. "Delinquent act" means:

- a. The violation of any state law or local ordinance which would constitute a public offense if committed by an adult except any offense which by law is exempted from the jurisdiction of this chapter.
- b. The violation of a federal law or a law of another state which violation constitutes a criminal offense if the case involving that act has been referred to the juvenile court.

12. "Department" means the department of social services and includes the local, county and regional officers of the department.

13. "Detention" means the temporary care of a child in a physically restricting facility designed to insure the continued custody of the child at any point between the child's initial contact with the juvenile authorities and the final disposition of his or her case.

14. "Detention hearing" means a hearing at which the court determines whether it is necessary to place or retain a child in detention.

15. "Dismissal of complaint" means the termination of all proceedings against a child.

16. "Dispositional hearing" means a hearing held after an adjudication to determine what dispositional order should

be made.

17. "Family in need of assistance" means a family in which there has been a breakdown in the relationship between a child and his or her parent, guardian or custodian.

18. "Guardian" means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child, to make important decisions which have a permanent effect on the life and development of that child and to promote the general welfare of that child. A guardian may be a court or a juvenile court. Guardian does not mean conservator, as defined in section six hundred thirty-three point three (633.3) of the Code, although a person who is appointed to be a guardian may also be appointed to be a conservator.

Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the rights and duties of a guardian with respect to a child shall be as follows:

a. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.

b. To serve as guardian ad litem, unless the interests of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.

c. To serve as custodian, unless another person has been appointed custodian.

d. To make periodic visitations if the guardian does not have physical possession or custody of the child.

e. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

19. "Guardian ad litem" means a person appointed by the court to represent the interests of the child in any judicial proceeding to which the child is a party.

20. "Health practitioner" means a licensed physician or surgeon, osteopath, osteopathic physician or surgeon, dentist, optometrist, podiatrist or chiropractor, a resident or intern of any such profession, and any registered nurse or licensed practical nurse.

21. "Informal adjustment" means the disposition of a complaint without the filing of a petition and may include but is not limited to the following:

a. Placement of the child on nonjudicial probation.

b. Provision of intake services.

c. Referral of the child to a public or private agency other than the court for services.

22. "Informal adjustment agreement" means an agreement between an intake officer, a child who is the subject of a complaint, and the child's parent, guardian or custodian providing for the informal adjustment of the complaint.

23. "Intake" means the preliminary screening of complaints by an intake officer to determine whether the court should take some action and if so, what action.

24. "Intake officer" means a juvenile probation officer or other officer appointed by the court to perform the intake function.

25. "Judge" means the judge of a juvenile court.

26. "Juvenile court social records" or "social records" means all records made with respect to a child in connection with proceedings over which the court has jurisdiction under this Act other than official records and includes but is not limited to the records made and compiled by intake officers, predisposition reports, and reports of physical and mental examinations.

27. "Juvenile detention home" means a physically restricting facility used only for the detention of children.

28. "Juvenile parole officer" means a person representing an agency which retains jurisdiction over the case of a child adjudicated to have committed a delinquent act, placed in a secure facility and subsequently released, who supervises the activities of the child until the case is dismissed.

29. "Juvenile probation officer" or "probation officer" means a person appointed as a juvenile probation officer under section two hundred thirty-one point eight (231.8) of the Code.

30. "Juvenile shelter care home" means a physically unrestricting facility used only for the shelter care of children.

31. "Nonjudicial probation" means the informal adjustment of a complaint which involves the supervision of the child who is the subject of the complaint by an intake officer or probation officer for a period during which the child may be required to comply with specified conditions concerning his or her conduct and activities.

32. "Nonsecure facility" means a physically unrestricting facility in which children may be placed pursuant to a dispositional order of the court made in accordance with the provisions of this Act.

33. "Official juvenile court records" or "official records" means official records of the court of proceedings over which the court has jurisdiction under this Act which includes but is not limited to the following:

- a. The docket of the court and entries therein.
- b. Complaints, petitions, other pleadings, motions, and applications filed with a court.
- c. Any summons, notice, subpoena, or other process and proofs of publication.
- d. Transcripts of proceedings before the court.
- e. Findings, judgments, decrees and orders of the court.

34. "Parent" means a natural or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

35. "Peace officer" means a law enforcement officer or a person designated as a peace officer by a provision of the Code.

36. "Petition" means a pleading the filing of which initiates formal judicial proceedings in the juvenile court.

37. "Physical abuse or neglect" or "abuse or neglect" means any nonaccidental physical injury suffered by a child as the result of the acts or omissions of the child's parent, guardian or custodian or other person legally responsible for the child.

38. "Predisposition investigation" means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a delinquency case over which the court has jurisdiction.

39. "Predisposition report" is a report furnished to the court which contains the information collected during a predisposition investigation.

40. "Probation" means a legal status which is created by a dispositional order of the court in a case where a child has been adjudicated to have committed a delinquent act, which exists for a specified period of time, and which places the child under the supervision of a juvenile probation officer or other person or agency designated by the court. The probation order may require a child to comply with specified conditions imposed by the court concerning conduct and activities, subject to being returned to the court for violation of those conditions.

41. "Registry" means the central registry for child abuse information as established under chapter two hundred thirty-

five A (235A) of the Code.

42. "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person of the child. These include but are not limited to the right of visitation, the right to consent to adoption, and the responsibility for support.

43. "Secure facility" means a physically restricting facility in which children adjudicated to have committed a delinquent act may be placed pursuant to a dispositional order of the court.

44. "Sexual abuse" means the commission of a sex offense as defined by the penal law.

45. "Shelter care" means the temporary care of a child in a physically unrestricting facility at any time between a child's initial contact with juvenile authorities and the final judicial disposition of his or her case.

46. "Shelter care hearing" means a hearing at which the court determines whether it is necessary to place or retain a child in shelter care.

47. "Social investigation" means an investigation conducted for the purpose of collecting information relevant to the court's fashioning of an appropriate disposition of a child in need of assistance case over which the court has jurisdiction.

48. "Social report" means a report furnished to the court which contains the information collected during a social investigation.

49. "Taking into custody" means an act which would be governed by the laws of arrest under the criminal code if the subject of the act were an adult. The taking into custody of a child is subject to all constitutional and statutory protections which are afforded an adult upon arrest.

50. "Termination hearing" means a hearing held to determine whether the court should terminate a parent-child relationship.

51. "Termination of the parent-child relationship" means the divestment by the court of the parent's and child's privileges, duties and powers with respect to each other.

52. "Waiver hearing" means a hearing at which the court determines whether it shall waive its jurisdiction over a child alleged to have committed a delinquent act so that the state may prosecute the child as if the child were an adult.

DIVISION II
JUVENILE DELINQUENCY PROCEEDINGS

PART 1

GENERAL PROVISIONS

Sec. 3. NEW SECTION. JURISDICTION.

1. The juvenile court shall have exclusive original jurisdiction in proceedings concerning any child who is alleged to have committed a delinquent act unless otherwise provided by law, and shall have exclusive original jurisdiction in proceedings concerning an adult who is alleged to have committed a delinquent act prior to having become an adult, provided that the taking of that person into custody for the alleged act or the filing of a delinquency petition alleging the commission of the act occurs

(a) Less than one year after the alleged commission of an act which would be a simple misdemeanor if committed by an adult; or

(b) Less than two years after the alleged commission of an act which would be an offense other than a simple misdemeanor if committed by an adult.

Violations by a child of provisions of chapters one hundred six (106), one hundred six A (106A), one hundred nine (109), one hundred ten (110), one hundred ten A (110A), one hundred ten B (110B), one hundred eleven (111), three hundred twenty-one (321), or three hundred twenty-one G (321G) of the Code which would be simple misdemeanors if committed by an adult, violations of county or municipal curfew or traffic ordinances, and violations by a child of the provisions of section one hundred twenty-three point forty-seven (123.47) of the Code, are excluded from the jurisdiction of the juvenile court and shall be prosecuted as simple misdemeanors as provided by law. The court may advise appropriate juvenile authorities and may refer violations of chapter one hundred twenty-three (123) of the Code to the juvenile court when there is reason to believe that the child regularly abuses alcohol and may be in need of treatment.

2. A case involving a person charged in a court other than the juvenile court with the commission of a public offense not exempted by law from the jurisdiction of the juvenile court and who is within the provisions of subsection one (1) of this section shall immediately be transferred to the juvenile court. The transferring court shall order a transfer and shall forward the transfer order together with all papers, documents and a transcript of all testimony filed or admitted

into evidence in connection with the case to the clerk of the juvenile court. The jurisdiction of the juvenile court shall attach immediately upon the signing of an order of transfer. From the time of transfer, the custody, shelter care and detention of the person alleged to have committed a delinquent act shall be in accordance with the provisions of this Act and the case shall be processed in accordance with the provisions of this Act.

3. The juvenile court, after a hearing and in accordance with the provisions of section twenty-five (25) of this Act, may waive jurisdiction of a child alleged to have committed a public offense so that the child may be prosecuted as an adult for such offense in another court. If the child pleads guilty or is found guilty of a public offense in another court of this state that court may, with the consent of the child, defer judgment and without regard to restrictions placed upon deferred judgments for adults, place the child on probation for a period not less than one year upon such conditions as it may require. Upon fulfillment of the conditions of probation the child shall be discharged without entry of judgment.

4. Nothing in this Act shall be interpreted as affecting the statutory limitations on prosecutions for murder in the first or second degree.

Sec. 4. NEW SECTION. MOTION FOR CHANGE OF JUDGE. Prior to a hearing pursuant to sections twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), thirty (30) or thirty-four (34) of this Act, the child may file a motion with the district court for the appointment of a new judge. The chief judge of the district court for cause shown shall appoint a new judge.

Sec. 5. NEW SECTION. VENUE.

1. Venue for delinquency proceedings shall be in the judicial district where the child is found, where the child resides or where the alleged delinquent act occurred.

2. The court may transfer delinquency proceedings to the court of any county having venue at any stage in the proceeding as follows:

a. When it appears that the best interests of the minor or society or the convenience of the parties will be served by a transfer, the court may transfer the case to the court of the county of the child's residence.

b. With the consent of the receiving court the court may

transfer the case to the court of the county where the minor is found.

c. The court may transfer the case to the county where the alleged delinquent act occurred.

3. The court shall transfer the case by ordering the transfer and a continuance and by forwarding to the clerk of the receiving court a certified copy of all papers filed together with an order of transfer. The judge of the receiving court may accept the filings of the transferring court or may direct the filing of a new petition and hear the case anew.

Sec. 6. NEW SECTION. RIGHT TO ASSISTANCE OF COUNSEL.

1. A child shall have the right to be represented by counsel at the following stages of the proceedings within the jurisdiction of the juvenile court under division two (II) of this Act:

a. From the time the child is taken into custody for any alleged delinquent act that constitutes a serious or aggravated misdemeanor or felony under the Iowa criminal code, and during any questioning thereafter by a peace officer or probation officer.

b. A detention or shelter care hearing as required by section twenty-four (24) of this Act.

c. A waiver hearing as required by section twenty-five (25) of this Act.

d. An adjudicatory hearing required by section twenty-seven (27) of this Act.

e. A dispositional hearing as required by section thirty (30) of this Act.

f. Hearings to review and modify a dispositional order as required by section thirty-four (34) of this Act.

2. The child's right to be represented by counsel under subsection one (1), paragraphs b through f of this section shall not be waived by a child of any age. The child's right to be represented by counsel under paragraph a of subsection one (1) of this section shall not be waived by the child without the written consent of the child's parent, guardian or custodian.

3. If the child is not represented by counsel as required under subsection one (1) of this section, counsel shall be provided as follows:

a. If the court determines, after giving the child's parent, guardian or custodian an opportunity to be heard, that such person has the ability in whole or in part to pay

for the employment of counsel, it shall either order that person to retain an attorney to represent the child or shall appoint counsel for the child and order the parent, guardian or custodian to pay for that counsel as provided in subsection five (5) of this section.

b. If the court determines that the parent, guardian or custodian cannot pay any part of the expenses of counsel to represent the child, it shall appoint such counsel, who shall be reimbursed according to the provisions of section seventy-five (75), subsection one (1), paragraph d, of this Act.

4. If the child is represented by counsel and the court determines that there is a conflict of interest between the child and his or her parent, guardian or custodian and that the retained counsel could not properly represent the child as a result of the conflict, the court shall appoint other counsel to represent the child and order the parent, guardian or custodian to pay for such counsel as provided in subsection five (5) of this section.

5. If the court determines, after an inquiry which includes notice and reasonable opportunity to be heard that the parent, guardian or custodian has the ability to pay in whole or in part for the attorney appointed for the child, the court may order that person to pay such sums as the court finds appropriate in the manner and to whom the court directs. If the person so ordered fails to comply with the order without good reason, the court shall enter judgment against him or her.

6. Nothing in this section shall be construed to prevent the child or the child's parent, guardian or custodian from retaining counsel to represent the child in proceedings under division two (II) of this Act in which the alleged delinquent act constitutes a simple misdemeanor under the Iowa Code.

Sec. 7. NEW SECTION. DUTIES OF COUNTY ATTORNEY. Upon the filing of a petition the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition.

Sec. 8. NEW SECTION. SUSPENSION OF TIME LIMITATIONS. Where the child requests a continuance of proceedings under division two (II) of this Act, the court, in an order granting the continuance, may suspend the time limitations imposed on the state by this division for a period of time not to exceed the length of the continuance.

PART 2

Sec. 9. NEW SECTION. TAKING A CHILD INTO CUSTODY.

1. A child may be taken into custody:
 - a. By order of the court.
 - b. For a delinquent act pursuant to the laws relating to arrest.
 - c. By a peace officer for the purpose of reuniting a child with the child's family or removing the child to a shelter care facility when the peace officer has reasonable grounds to believe the child has run away from his or her parents, guardian, or custodian.
 - d. By a peace officer, juvenile probation officer, or juvenile parole officer when the officer has reasonable grounds to believe the child has committed a material violation of a dispositional order.

2. When a child is taken into custody as provided in subsection one (1) of this section the person taking the child into custody shall notify the child's parent, guardian or custodian as soon as possible and shall not place bodily restraints, such as handcuffs, on the child unless the child physically resists or threatens physical violence when being taken into custody. Unless the child is placed in shelter care or detention in accordance with the provisions of sections eleven (11) or twelve (12) of this Act, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.

Sec. 10. NEW SECTION. ADMISSION OF CHILD TO SHELTER CARE OR DETENTION.

1. If a child is taken into custody and not released as provided in section nine (9), subsection two (2), of this Act, the child shall immediately be taken to a detention or shelter care facility as specified in sections eleven (11) or twelve (12) of this Act.
2. When a child is admitted to a detention or shelter care facility the person in charge of the facility or his or her designated representative shall notify the court, the child's attorney, and the child's parent, guardian, or custodian as soon as possible of the admission and the reasons for that admission.

Sec. 11. NEW SECTION. PLACEMENT IN SHELTER CARE.

1. No child shall be placed in shelter care unless one of the following circumstances applies:

a. The child has no parent, guardian, custodian, responsible adult relative or other adult approved by the court who will provide proper shelter, care and supervision.

b. The child desires to be placed in shelter care.

c. It is necessary to hold the child until his or her parent, guardian, or custodian has been contacted and has taken custody of the child.

d. It is necessary to hold the child for transfer to another jurisdiction.

e. The child is being placed pursuant to an order of the court.

2. A child may be placed in shelter care as provided in this section only in one of the following facilities:

a. A juvenile shelter care home.

b. A licensed foster home.

c. An institution or other facility operated by the department of social services, or one which is licensed or otherwise authorized by law to receive and provide care for the child.

d. Any other suitable place designated by the court provided that no place used for the detention of a child may be so designated.

3. When there is reason to believe that a child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act would not voluntarily remain in the shelter care facility, the shelter care facility shall impose reasonable restrictions necessary to insure the child's continued custody.

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without a court order authorizing such shelter care. A child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act shall not be held in excess of seventy-two hours in any event.

5. If no satisfactory provision is made for uniting a child placed in shelter care pursuant to section nine (9), subsection one (1), paragraph c of this Act with his or her family, a child in need of assistance complaint may be filed pursuant to section forty-two (42) of this Act. Nothing in this subsection shall limit the right of a child to file a family in need of assistance petition under section seventy-one (71) of this Act.

Sec. 12. NEW SECTION. PLACEMENT IN DETENTION.

1. No child shall be placed in detention unless:

- a. The child is being held under warrant for another jurisdiction; or
 - b. The child is an escapee from a juvenile correctional or penal institution; or
 - c. There is probable cause to believe that the child has violated conditions of release imposed under section thirty-four (34) of this Act and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or
 - d. There is probable cause to believe the child has committed a delinquent act, and:
 - (1) There is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or
 - (2) There is a serious risk that the child if released may commit an act which would inflict serious bodily harm on the child or on another; or
 - (3) There is a serious risk that the child if released may commit serious damage to the property of others.
2. A child may be placed in detention as provided in this section only in one of the following facilities:
- a. A juvenile detention home.
 - b. Any other suitable place designated by the court.
 - c. A room in a facility intended or used for the detention of adults if there is probable cause to believe that the child has committed a delinquent act, and if:
 - (1) The child is at least fourteen years of age; and
 - (2) The child has shown by his or her conduct, habits, or condition that he or she constitutes an immediate and serious danger to himself or herself or to another, or to the property of another and a facility or place enumerated in paragraph a or b of this subsection is unavailable, or the court determines that the child's conduct or condition endangers the safety of others in the facility; and
 - (3) The facility has an adequate staff to supervise and monitor the child's activities at all times; and
 - (4) The child is confined in a room entirely separated from adults.
 - d. A place used for the detention of children prior to an adjudicatory hearing may also be used for the detention of a child awaiting disposition to a placement under section thirty-two (32), subsection two (2), paragraph e of this Act while the adjudicated child is awaiting transfer to the disposition placement.

3. No child shall be held in a facility under paragraphs a and b of subsection two (2) of this section for a period in excess of twenty-four hours without a court order authorizing such detention.

4. No child shall be detained in a facility under paragraph c of subsection two (2) of this section for a period in excess of twelve hours without the written order of a judge or a magistrate authorizing such detention.

PART 3

INTAKE

Sec. 13. NEW SECTION. INTAKE.

1. Any person having knowledge of the facts may file a complaint with the court alleging that a child has committed a delinquent act.

2. The court shall refer the complaint to an intake officer who shall conduct a preliminary inquiry to determine what action should be taken.

3. In the course of a preliminary inquiry, the intake officer may:

a. Interview the complainant, victim or witnesses of the alleged delinquent act.

b. Check existing records of the court, law enforcement agencies and public records of other agencies.

c. Hold conferences with the child and his or her parent or parents, guardian or custodian for the purpose of interviewing them and discussing the disposition of the complaint in accordance with the requirements set forth in subsection eight (8) of this section.

d. Examine any physical evidence pertinent to the complaint.

e. Interview such persons as are necessary to determine whether the filing of a petition would be in the best interests of the child and the community as provided in section fifteen (15), subsections two (2) and three (3) of this Act.

4. Any additional inquiries may be made only with the consent of the child and his or her parent or parents, guardian or custodian.

5. Participation of the child and his or her parent or parents, guardian or custodian in a conference with an intake officer shall be voluntary, and they shall have the right to refuse to participate in such conference. At such conference the child shall have the right to the assistance of counsel in accordance with section six (6) of this Act and the right to remain silent when questioned by the intake officer.

6. The intake officer, after consultation with the county attorney when necessary, shall determine whether the complaint is legally sufficient for the filing of a petition. A complaint shall be deemed legally sufficient for the filing of a petition if the facts as alleged are sufficient to establish the jurisdiction of the court and probable cause to believe that the child has committed a delinquent act. If the intake officer determines that the complaint is legally sufficient to support the filing of a petition, the officer shall determine whether the interests of the child and the public will best be served by the dismissal of the complaint, the informal adjustment of the complaint, or the filing of a petition.

7. If the intake officer determines that the complaint is not legally sufficient for the filing of a petition or that further proceedings are not in the best interests of the child or the public, the intake officer shall dismiss the complaint.

8. If the intake officer determines that the complaint is legally sufficient for the filing of a petition and that an informal adjustment of the complaint is in the best interests of the child and the community, the officer may make an informal adjustment of the complaint in accordance with section fourteen (14) of this Act.

9. If the intake officer determines that the complaint is legally sufficient for the filing of a petition and that the filing of a petition is in the best interests of the juvenile and the public, the officer shall request the county attorney to file a petition in accordance with section fifteen (15) of this Act.

Sec. 14. NEW SECTION. INFORMAL ADJUSTMENT.

1. The informal adjustment of a complaint is a permissible disposition of a complaint at intake subject to the following conditions:

a. The child has admitted his or her involvement in a delinquent act.

b. The intake officer shall advise the child and his or her parent, guardian or custodian that they have the right to refuse an informal adjustment of the complaint and demand the filing of a petition and a formal adjudication.

c. Any informal adjustment agreement shall be entered into voluntarily and intelligently by the child with the advice of his or her attorney, or by the child with the consent of a parent, guardian, or custodian if the child is not

represented by counsel.

d. The terms of such agreement shall be clearly stated in writing and signed by all parties to the agreement and a copy of this agreement shall be given to the child; the counsel for the child; the parent, guardian or custodian; and the intake officer, who shall retain the copy in the case file.

e. An agreement providing for the supervision of a child by a juvenile probation officer or the provision of intake services shall not exceed six months.

f. An agreement providing for the referral of a child to a public or private agency for services shall not exceed six months.

g. The child and his or her parent, guardian or custodian shall have the right to terminate such agreement at any time and to request the filing of a petition and a formal adjudication.

h. If an informal adjustment of a complaint has been made, a petition based upon the events out of which the original complaint arose may be filed only during the period of six months from the date the informal adjustment agreement was entered into. If a petition is filed within this period the child's compliance with all proper and reasonable terms of the agreement shall be grounds for dismissal of the petition by the court.

i. The person performing the duties of intake officer shall file a report at least annually with the court listing the number of informal adjustments made during the reporting time, the conditions imposed in each case, the number of informal adjustments resulting in dismissal without the filing of a petition, and the number of informal adjustments resulting in the filing of a petition upon the original complaint.

PART 4

JUDICIAL PROCEEDINGS

Sec. 15. NEW SECTION. FILING OF PETITION.

1. A formal judicial proceeding to determine whether a child has committed a delinquent act shall be initiated by the filing by the county attorney of a petition alleging that a child has committed a delinquent act.

2. If the intake officer determines that a complaint is legally sufficient for the filing of a petition alleging that a child has committed a delinquent act and that the filing of a petition would be in the best interests of the child

and the community, the officer shall submit a written request for the filing of a petition to the county attorney. The county attorney may grant or deny the request of the intake officer for the filing of a petition. A determination by the county attorney that a petition should not be filed shall be final.

3. If the intake officer determines that a complaint is not legally sufficient for the filing of a petition or that the filing of a petition would not be in the best interests of the child and the community, the officer shall notify the complainant of his or her determination and the reasons for such determination, and shall advise the complainant that he or she may submit the complaint to the county attorney for review. Upon receiving a request for review, the county attorney shall consider the facts presented by the complainant, consult with the intake officer and make the final determination as to whether a petition should be filed. In the absence of a request by the complainant for a review of the intake officer's determination that a petition should not be filed, the officer's determination shall be final.

Sec. 16. NEW SECTION. CONTENTS OF PETITION.

1. The petition and subsequent court documents shall be entitled "In the interest of, a child."

2. The petition shall be verified and any statements in the petition may be made upon information and belief.

3. The petition shall set forth plainly:

a. The name, age, and residence of the child who is the subject of the petition.

b. The names and residences of any:

- (1) Living parent of the child.
- (2) Guardian of the child.
- (3) Legal custodian of the child.
- (4) Guardian ad litem.

c. With reasonable particularity, the time, place and manner of the delinquent act alleged and the penal law allegedly violated by such act.

4. If any of the facts required under subsection three (3), paragraphs a and b of this section are not known by the petitioner, the petition shall so state.

5. The petition shall set forth plainly the nearest known relative of the child if no parent or guardian can be found.

Sec. 17. NEW SECTION. SUMMONS, NOTICE, SUBPOENAS AND SERVICE.

1. After a petition has been filed the court shall set

a time for an adjudicatory hearing and unless the parties named in subsection two (2) of this section voluntarily appear, shall issue a summons requiring the child to appear before the court at a time and place stated and requiring the person who has custody or control of the child to appear before the court and to bring the child with him or her at that time. The summons shall attach a copy of the petition and shall give notification of the right to counsel provided for in section six (6) of this Act.

2. Notice of the pendency of the case shall be served upon the known parent, guardian or legal custodian of a child if this person is not summoned to appear as provided in subsection one (1) of this section. Notice shall also be served upon the child and upon the child's guardian ad litem, if any. The notice shall attach a copy of the petition and shall give notification of the right to counsel provided for in section six (6) of this Act.

3. Upon request of the child who is identified in the petition as a party to the proceeding, the child's parent, guardian or custodian, a county attorney or on the court's own motion, the court or the clerk of the court shall issue subpoenas requiring the attendance and testimony of witnesses and production of papers at any hearing under this division.

4. Service of summons or notice shall be made personally by the delivery of a copy thereof to the person being served. If the court determines that personal service of a summons or notice is impracticable, the court may order service by certified mail addressed to the last known address or by publication or both. Service of summons or notice shall be made not less than five days before the time fixed for hearing. Service of summons, notice, subpoenas or other process, after an initial valid summons or notice, shall be made in accordance with the rules of the court governing such service in civil actions.

5. If a person personally served with a summons or subpoena fails without reasonable cause to appear or to bring the child, the person may be proceeded against for contempt of court or the court may issue an order for the arrest of such person or both the arrest of the person and the taking into custody of the child.

6. The court may issue an order for the removal of the child from the custody of his or her parent, guardian or custodian when there exists an immediate threat that the parent, guardian or custodian will flee the state with the

child, or when it appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health.

Sec. 18. NEW SECTION. PRESENCE OF PARENTS AT HEARINGS.

1. Any hearings or proceedings under this division subsequent to the filing of a petition shall not take place without the presence of one or both of the child's parents, guardian or custodian except that a hearing or proceeding may take place without such presence if the parent, guardian or custodian fails to appear after reasonable notification, or if the court finds that a reasonably diligent effort has been made to notify the child's parent, guardian, or custodian, and the effort was unavailing.

2. In any such hearings or proceedings the court may temporarily excuse the presence of the parent, guardian or custodian when the court deems it in the best interests of the child. Counsel for the parent, guardian or custodian shall have the right to participate in a hearing or proceeding during the absence of the parent, guardian or custodian.

Sec. 19. NEW SECTION. EXCLUSION OF PUBLIC FROM HEARINGS.

At any time during the proceedings, the court, on the motion of any of the parties or upon the court's own motion, may exclude the public from hearings under this division if the court determines that the possibility of damage or harm to the juvenile outweighs the public's interest in having an open hearing. Upon closing the hearing to the public, the court may admit those persons who have direct interest in the case or in the work of the court.

Sec. 20. NEW SECTION. OTHER ISSUES ADJUDICATED. When it appears during the course of any hearing or proceeding that some action or remedy other than those indicated by the application or pleading is appropriate, the court, with the consent of all necessary parties, may proceed to hear and determine the additional or other issues as though originally properly sought and pleaded.

Sec. 21. NEW SECTION. REPORTER REQUIRED. Stenographic notes or mechanical or electronic recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section shall be the same as those required in section six hundred twenty-four point nine (624.9) of the Code.

Sec. 22. NEW SECTION. CONTINUANCES. Continuances in juvenile delinquency proceedings may be granted by the court only for good cause shown on the record if the child is being held in detention.

Sec. 23. NEW SECTION. ANSWER--PLEA AGREEMENT--ACCEPTANCE OF PLEA ADMITTING ALLEGATIONS OF PETITION.

1. A written answer to a delinquency petition need not be filed by the child, but any matters which might be set forth in an answer or other pleading may be filed in writing or pleaded orally before the court.

2. The county attorney and the child's counsel may mutually consider a plea agreement which contemplates entry of a plea admitting the allegations of the petition in the expectation that other charges will be dismissed or not filed or that a specific disposition will be recommended by the county attorney and granted by the court. Any plea discussion shall be open to the child and the child's parent, guardian or custodian.

3. The court shall not accept a plea admitting the allegations of the petition without first addressing the child personally in court, determining that the plea is voluntary and not the result of any force or threats or promises other than promises made in connection with a plea agreement and informing the child of and determining that the child understands the following:

a. The nature of the allegations of the petition to which the plea is offered.

b. The severest possible disposition and the maximum length of such disposition which the court may order if the court accepts the plea.

c. The child has the right to deny the allegations of the petition.

d. If the child admits the allegations of the petition the child waives the right to a further adjudicatory hearing.

4. The court shall not accept a plea admitting the allegations of the petition without first addressing the county attorney and the child's counsel in court and making an inquiry into whether such a plea is the result of a plea agreement. The court shall require the disclosure of the terms of any such agreement in court. If a plea agreement has been reached which contemplates entry of the plea in the expectation that the court will order a specific disposition or dismiss other charges against the child before the court, the court shall state to the parties whether the court will

concur in the proposed disposition or dismissal of charges. If the court will not concur in such disposition or dismissal, the court should advise the child personally of this fact, advise the child that the disposition of the case may be less favorable to the child than that contemplated by the plea agreement, and afford the child the opportunity to withdraw the plea. If the court defers decision as to whether the court will concur with the proposed disposition or dismissal until there has been an opportunity to consider the predisposition report, the court shall advise the child that the court is not bound by the plea agreement and afford the child the opportunity to withdraw the plea.

5. The court shall not accept a plea admitting the allegations of the petition without:

- a. Determining that there is a factual basis for the plea.
- b. Determining that the child was given effective assistance of counsel prior to tender of the plea.
- c. Inquiring of the parent or parents who are present in court whether they agree as to the course of action that their child has chosen. If either parent expresses disagreement with the plea, the court may refuse to accept that plea.

6. If the court determines that a plea is not in the child's best interest it may refuse to accept that plea regardless of the agreement of the parties.

Sec. 24. NEW SECTION. DETENTION OR SHELTER CARE HEARING--RELEASE FROM DETENTION UPON CHANGE OF CIRCUMSTANCE.

1. A hearing shall be held within forty-eight hours, excluding Saturdays, Sundays and legal holidays, of the time of the child's admission to a detention or shelter care facility. If the hearing is not held within the time specified, the child shall be released from shelter care or detention. Prior to the hearing a petition shall be filed, except where the child is already under the supervision of a juvenile court under a prior judgment.

2. The county attorney or a juvenile probation officer may apply for a hearing at any time after the petition is filed to determine whether the child who is the subject of the petition should be placed in detention or shelter care. The court may upon the application or upon its own motion order such hearing.

3. A notice stating the time, place, and purpose of the hearing shall be served personally upon the child, the child's attorney, the child's guardian ad litem if any, and the child's

known parent, guardian or custodian not less than twenty-four hours before the time the hearing is scheduled to begin. If the court finds that there has been reasonably diligent effort to give notice to a parent, guardian or custodian and that the effort has been unavailing, the hearing may proceed without such notice having been served.

4. At the hearing the court shall admit only testimony and other evidence relevant to the determination of whether there is probable cause to believe the child has committed the act as alleged in the petition and to the determination of whether the placement of the child in detention or shelter care is authorized under section eleven (11) or twelve (12) of this Act. Any written reports or records made available to the court at the hearing shall be made available to the parties. A copy of the petition shall be given to each of the parties at or before the hearing.

5. The court shall find release to be proper under the following circumstances:

a. If the court finds that there is not probable cause to believe that the child is a child within the jurisdiction of the court under this Act, it shall release the child and dismiss the petition.

b. If the court finds that detention or shelter care is not authorized under section eleven (11) or twelve (12) of this Act, or is authorized but not warranted in a particular case, the court shall order the child's release, and in so doing, may impose one or more of the following conditions:

(1) Place the child in the custody of a parent, guardian or custodian under that person's supervision, or under the supervision of an organization which agrees to supervise the child.

(2) Place restrictions on the child's travel, association, or place of residence during the period of release.

(3) Impose any other condition deemed reasonably necessary and consistent with the grounds for detaining children specified in section eleven (11) or twelve (12) of this Act, including a condition requiring that the child return to custody as required.

c. An order releasing a child on conditions specified in this section may be amended at any time to impose equally or less restrictive conditions. The order may be amended to impose additional or more restrictive conditions, or to revoke the release, if the child has failed to conform to the conditions originally imposed.

6. If the court finds that there is probable cause to believe that the child is within the jurisdiction of the court under this Act and that full-time detention or shelter care is authorized under section eleven (11) or twelve (12) of this Act, it may issue an order authorizing either shelter care or detention until the adjudicatory hearing is held or for a period not exceeding seven days whichever is shorter.

7. If a child held in shelter care or detention by court order has not been released after a detention hearing or has not appeared at an adjudicatory hearing before the expiration of the order of detention, an additional hearing shall automatically be scheduled for the next court day following the expiration of the order. The child, the child's counsel, the child's guardian ad litem, and the child's parent, guardian or custodian shall be notified of this hearing not less than twenty-four hours before the hearing is scheduled to take place.

8. A child held in a detention or shelter care facility under order of court after a hearing may be released upon a showing that a change of circumstances makes continued detention unnecessary.

9. A written request for the release of the child, setting forth the changed circumstances, may be filed by the child, by a responsible adult on the child's behalf, by the child's custodian, or by the juvenile probation officer.

10. Based upon the facts stated in the request for release the court may grant or deny the request without a hearing, or may order that a hearing be held at a date, time and place determined by the court. Notice of the hearing shall be given to the child and his or her custodian or counsel. Upon receiving evidence at the hearing, the court may release the child to the child's custodian or other suitable person, or may deny the request and remand the child to the detention or shelter care facility.

Sec. 25. NEW SECTION. WAIVER HEARING AND WAIVER OF JURISDICTION.

1. After the filing of a petition which alleges that a child has committed a delinquent act on the basis of an alleged commission of a public offense and before an adjudicatory hearing on the merits of the petition is held, the county attorney or the child may file a motion requesting the court to waive its jurisdiction.

2. The court shall hold a waiver hearing on all such motions.

3. A notice that states the time, place, and purpose of the waiver hearing shall be issued and served in the same manner as for adjudicatory hearings as provided in section seventeen (17) of this Act. Summons, subpoenas and other process may be issued and served in the same manner as for adjudicatory hearings as provided in section seventeen (17) of this Act.

4. Prior to the waiver hearing, the juvenile probation officer or other person or agency designated by the court shall conduct an investigation for the purpose of collecting information relevant to the court's decision to waive its jurisdiction over the child and shall submit a report concerning such investigation to the court. The report shall include any recommendations made concerning waiver. Prior to the hearing the court shall provide the child's counsel and the county attorney with access to the report and to all written material to be considered by the court.

5. At the waiver hearing all relevant and material evidence shall be admitted.

6. At the conclusion of the waiver hearing the court may waive its jurisdiction over the child if:

a. The child is fourteen years of age or older; and
b. The court determines, or has previously determined in a detention hearing under section twenty-four (24) of this Act, that there is probable cause to believe that the child has committed a delinquent act which would constitute a public offense; and

c. The court determines that the state has established that there are not reasonable prospects for rehabilitating the child in the event the juvenile court retains jurisdiction over the child and the child is adjudicated to have committed a delinquent act, and that waiver of the court's jurisdiction would be in the best interest of the child or the community.

7. In making the determination required by subsection six (6), paragraph c, of this section, the factors which the court shall consider include but are not limited to the following:

a. The nature of the alleged delinquent act and the circumstances under which it was committed.

b. The nature and extent of the child's prior contacts with juvenile authorities, including past efforts of such authorities to treat and rehabilitate the child and the response to such efforts.

c. The programs, facilities and personnel available to

the juvenile court for rehabilitation and treatment of the child, and the programs, facilities and personnel which would be available to the court that would have jurisdiction in the event the juvenile court waives its jurisdiction so that the child can be prosecuted as an adult.

8. If at the conclusion of the hearing the court waives its jurisdiction over the child, the court shall make and file written findings as to its reasons for waiving its jurisdiction.

9. If the court waives jurisdiction, statements made by the child after being taken into custody and prior to intake are admissible as evidence in chief against the child in subsequent criminal proceedings provided that the statements were made with the advice of the child's counsel or after waiver of the child's right to counsel and provided that the court finds the child had voluntarily waived the right to remain silent. Other statements made by a child are admissible as evidence in chief provided that the court finds the statements were voluntary. In making its determination, the court may consider any factors it finds relevant and shall consider the following factors:

- a. Opportunity for the child to consult with a parent, guardian, custodian, lawyer or other adult.
- b. The age of the child.
- c. The child's level of education.
- d. The child's level of intelligence.
- e. Whether the child was advised of his or her constitutional rights.
- f. Length of time the child was held in shelter care or detention before making the statement in question.
- g. The nature of the questioning which elicited the statement.
- h. Whether physical punishment such as deprivation of food or sleep was used upon the child during the shelter care, detention, or questioning.

Statements made by the child during intake or at a waiver hearing held pursuant to this section are not admissible as evidence in chief against the child in subsequent criminal proceedings over the child's objection in any event.

10. If the court waives its jurisdiction over the child so that the child may be prosecuted as an adult, the judge who made the waiver decision shall not preside at any subsequent proceedings in connection with that prosecution over the objection of the child.

11. If a child who is alleged to have delivered, manufactured, or possessed with intent to deliver or manufacture, a controlled substance except marijuana, as defined in chapter two hundred four (204) of the Code, is waived to district court for prosecution, the mandatory minimum sentence provided in section two hundred four point four hundred thirteen (204.413), Code 1977 Supplement, shall not be imposed if a conviction is had; however, each child convicted of such an offense shall be confined for not less than thirty days in a secure facility.

Upon application of a person charged or convicted under the authority of this subsection, the district court shall order the records in the case sealed if:

- a. Five years have elapsed since the final discharge of that person; and
- b. The person has not been convicted of a felony or an aggravated or serious misdemeanor, or adjudicated a delinquent for an act which if committed by an adult would be a felony, or an aggravated or serious misdemeanor since the final discharge of that person.

Sec. 26. NEW SECTION. CONSENT DECREE.

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section twenty-seven (27) of this Act, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include the supervision of the child by a juvenile probation officer or other agency or person designated by the court.

2. A consent decree shall not be entered unless the child and his or her parent, guardian or custodian is informed of the consequences of the decree by the court and the court determines that the child has voluntarily and intelligently agreed to the terms and conditions of the decree. If the county attorney objects to the entry of a consent decree, the court shall proceed to determine the appropriateness of entering a consent decree after consideration of any objections or reasons for entering such a decree.

3. A consent decree shall remain in force for six months unless the child is sooner discharged by the court or by the juvenile probation officer or other agency or person supervising the child. Upon application of a juvenile probation officer or other agency or person supervising the

child made prior to the expiration of the decree and after notice and hearing, or upon agreement by the parties, a consent decree may be extended for an additional six months by order of the court.

4. When a child has complied with the express terms and conditions of the consent decree for the required amount of time or until earlier dismissed as provided in subsection three (3) of this section, the original petition may not be reinstated. However, failure to so comply may result in the child's being thereafter held accountable as if the consent decree had never been entered.

5. A child who is discharged or who completes a period of continuance without the reinstatement of the original petition shall not be proceeded against in any court for a delinquent act alleged in the petition.

Sec. 27. NEW SECTION. ADJUDICATORY HEARING--FINDINGS--ADJUDICATION.

1. If a child denies the allegations of the petition, that child may be found to be delinquent only after an adjudicatory hearing conducted in accordance with the provisions of this section.

2. The court shall hear and adjudicate all cases involving a petition alleging a child to have committed a delinquent act.

3. The child shall have the right to adjudication by an impartial finder of fact. A judge of the juvenile court may not serve as the finder of fact over objection of the child based upon a showing of prejudice on the part of the judge. In the event that a judge is disqualified from serving as a finder of fact under this provision, a substitute judge shall serve as the finder of fact.

4. At an adjudicatory hearing the state shall have the burden of proving the allegations of the petition.

5. Only evidence which is admissible under the rules of evidence applicable to the trial of criminal cases shall be admitted at the hearing except as otherwise provided by this section.

6. Statements or other evidence derived directly or indirectly from statements which a child makes to a law enforcement officer while in custody without presence of counsel may be admitted into evidence at an adjudicatory hearing over the child's objection only after the court determines whether the child has voluntarily waived the right to remain silent. In making its determination the court may

consider any factors it finds relevant and shall consider the following factors:

a. Opportunity for the child to consult with a parent, guardian, custodian, lawyer or other adult.

b. The age of the child.

c. The child's level of education.

d. The child's level of intelligence.

e. Whether the child was advised of his or her constitutional rights.

f. Length of time the child was held in shelter care or detention before making the statement in question.

g. The nature of the questioning which elicited the statement.

h. Whether physical punishment such as deprivation of food or sleep was used upon the child during the shelter care, detention, or questioning.

7. The following statements or other evidence shall not be admitted as evidence in chief at an adjudicatory hearing:

a. Statements or other evidence derived directly or indirectly from statements which a child makes to a juvenile intake officer without the presence of counsel subsequent to the filing of a complaint and prior to adjudication unless the child and his or her attorney consent to the admission of such statements or evidence.

b. Statements which the child makes to a juvenile probation officer or other person conducting a predisposition investigation during such an investigation.

8. At the conclusion of an adjudicatory hearing, the court shall make a finding as to whether the child has committed a delinquent act. The court shall make and file written findings as to the truth of the specific allegations of the petition and as to whether the child has engaged in delinquent conduct.

9. If the court finds that the child did not engage in delinquent conduct, the court shall enter an order dismissing the petition.

10. If the court finds that the child did engage in delinquent conduct, the court may enter an order adjudicating the child to have committed a delinquent act. The child shall be presumed to be innocent of the charges against him or her and no finding that a child has engaged in delinquent conduct may be made unless the state has proved beyond a reasonable doubt that the child engaged in such behavior.

Sec. 28. NEW SECTION. PREDISPOSITION INVESTIGATION AND REPORT.

1. The court shall not make a disposition of the matter following the entry of an order of adjudication pursuant to section twenty-seven (27) of this Act until a predisposition report has been submitted to and considered by the court. The court may direct a juvenile probation officer or any other agency or individual to conduct a predisposition investigation and to prepare a predisposition report.

2. A predisposition investigation shall not be conducted prior to the adjudication of the child without the consent of the child and his or her counsel. No predisposition report shall be submitted to or considered by the court prior to the completion of the adjudicatory hearing.

3. A predisposition report shall not be disclosed except as provided in this section and in division eight (VIII) of this Act. Prior to the dispositional hearing, the court shall permit the child's attorney to inspect any predisposition report to be considered by the court in making a disposition. The court may in its discretion order counsel not to disclose parts of the report to the child, or to the child's parent, guardian, guardian ad litem, or custodian if the court finds that disclosure would seriously harm the treatment or rehabilitation of the child.

Sec. 29. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

1. Following the entry of an order of adjudication under section twenty-seven (27) of this Act the court may after a hearing which may be simultaneous with the adjudicatory hearing, order a physical or mental examination of the child if it finds that an examination is necessary to determine the child's physical or mental condition.

2. When possible an examination shall be conducted on an out-patient basis, but the court may, if it deems necessary, commit the child to a suitable hospital, facility or institution for the purpose of examination. Commitment for examination shall not exceed thirty days and the civil commitment provisions of chapter two hundred twenty-nine (229) of the Code shall not apply.

3. At any time after the filing of a delinquency petition the court may order a physical or mental examination of the child if the following circumstances apply:

a. The court finds such examination to be in the best interest of the child; and

b. The parent, guardian or custodian and the child's counsel agree.

An examination shall be conducted on an out-patient basis unless the court, the child's counsel and the parent, guardian or custodian agree that it is necessary the child be committed to a suitable hospital, facility or institution for the purpose of examination. Commitment for examination shall not exceed thirty days and the civil commitment provisions of chapter two hundred twenty-nine (229) of the Code shall not apply.

Sec. 30. NEW SECTION. DISPOSITIONAL HEARING.

1. As soon as practicable following the entry of an order of adjudication pursuant to section twenty-seven (27) of this Act, the court shall hold a dispositional hearing in order to determine what disposition should be made of the matter.

2. At that hearing all relevant and material evidence shall be admitted.

3. When the dispositional hearing is concluded the court shall enter an order to make any one or more of the dispositions authorized under section thirty-two (32) of this Act.

Sec. 31. NEW SECTION. DISPOSITION OF MENTALLY ILL OR MENTALLY RETARDED CHILD. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally ill, the court may direct the juvenile probation officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. Such proceedings shall adhere to the requirements of chapter two hundred twenty-nine (229) of the Code. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is mentally retarded, the court may direct the juvenile probation officer or the department to initiate proceedings or to assist the child's parent or guardian to initiate civil commitment proceedings in the juvenile court. Such proceedings shall adhere to the requirements of chapter two hundred twenty-two (222) of the Code. In the event the child is committed as a mentally ill or mentally retarded child, any order adjudicating the child to have committed a delinquent act shall be set aside and the petition shall be dismissed.

Sec. 32. NEW SECTION. DISPOSITION OF CHILD FOUND TO HAVE COMMITTED A DELINQUENT ACT.

1. Pursuant to a hearing as provided in section thirty (30) of this Act, the court shall enter the least restrictive dispositional order appropriate in view of the seriousness

of the delinquent act, the child's culpability as indicated by the circumstances of the particular case, the age of the child and the child's prior record. The order shall specify the duration and the nature of the disposition, including the type of residence or confinement ordered and the individual, agency, department or facility in whom custody is vested.

2. The dispositional orders which the court may enter are as follows:

a. An order prescribing a work assignment of value to the state or to the public, or prescribing restitution consisting of monetary payment or a work assignment of value to the victim. Such order may be the sole disposition or may be included as an element in other dispositional orders.

b. An order placing the child on probation and releasing the child to his or her parent, guardian or custodian.

c. An order providing special care and treatment required for the physical, emotional or mental health of the child, and

(1) Placing the child on probation or other supervision; and

(2) If the court deems appropriate, ordering the parent, guardian, or custodian to reimburse the county for any costs incurred as provided in section seventy-five (75), subsection two (2) of this Act or to otherwise pay or provide for such care and treatment.

d. An order transferring the legal custody of the child, subject to the continuing jurisdiction of the court for purposes of section thirty-four (34) of this Act, to one of the following:

(1) An adult relative or other suitable adult and placing the child on probation.

(2) A child placing agency or other suitable private agency or facility which is licensed or otherwise authorized by law to receive and provide care for children and placing the child on probation or other supervision.

(3) The department of social services for purposes of foster care and prescribing the type of placement which will serve the best interests of the child and the means by which the placement shall be monitored by the court.

e. An order transferring the guardianship of the child, subject to the continuing jurisdiction of the court for the purposes of section thirty-four (34) of this Act, to the commissioner of the department of social services for purposes

of placement in the Iowa juvenile home at Toledo, the Iowa training school for boys, the Iowa training school for girls, or other facility provided that:

- (1) The child is at least twelve years of age; and
- (2) The court finds such placement to be in the best interests of the child or necessary to the protection of the public.

f. An order committing the child to a mental health institute or other appropriate facility for the purpose of treatment of a mental or emotional condition after making findings pursuant to the standards set out for involuntary commitment in chapter two hundred twenty-nine (229) of the Code.

3. When the court enters an order placing a child on probation pursuant to this section, the court may in cases of change of residency transfer jurisdiction of the child to the juvenile court of the county where the child's residence is established. The court to which the jurisdiction of the child is transferred shall have the same powers with respect to the child as if the petition had originally been filed in that court.

4. When the court enters an order transferring the legal and physical custody of a child to an agency, facility, department or institution, the court shall transmit its order, its finding, and a summary of its information concerning the child to such agency, facility, department or institution.

Sec. 33. NEW SECTION. DURATION OF DISPOSITIONAL ORDERS.

1. Any dispositional order entered by the court pursuant to section thirty-two (32) of this Act shall remain in force for an indeterminate period or until the child becomes eighteen years of age unless otherwise specified by the court or unless sooner terminated pursuant to the provisions of section thirty-four (34) of this Act. No dispositional order made under section thirty-two (32), subsection two (2), paragraph e shall remain in force longer than the maximum possible duration of the sentence which may be imposed on an adult for the commission of the act which the child has been found by the court to have committed.

2. All dispositional orders shall automatically terminate when the child becomes eighteen years of age, except that in the case of an adult within the jurisdiction of the court under the provisions of section three (3), subsection one (1) of this Act, the dispositional order shall automatically

terminate one year after the last date upon which jurisdiction could attach.

3. Any person supervising but not having custody of the child pursuant to such an order shall file a written report with the court at least every six months concerning the status and progress of the child.

Any agency, facility, institution or person to whom custody of the child has been transferred pursuant to such order shall file a written report with the court at least every six months concerning the status and progress of the child.

Sec. 34. NEW SECTION. TERMINATION, MODIFICATION, OR VACATION AND SUBSTITUTION OF DISPOSITIONAL ORDER. At any time prior to its expiration, a dispositional order may be terminated, modified, or vacated and another dispositional order substituted therefor only in accordance with the following provisions:

1. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraph a or b of this Act and upon the motion of a child, a child's parent or guardian, a child's guardian ad litem, a person supervising the child under a dispositional order, a county attorney, or upon its own motion, the court may terminate the order and discharge the child, modify the order, or vacate the order and substitute another order pursuant to the provisions of section thirty-two (32) of this Act. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

2. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraph d, of this Act, the court may grant a motion of the person to whom custody has been transferred for termination of the order and discharge of the child, for modification of the order by imposition of less restrictive conditions, or for vacation of the order and substitution of a less restrictive order. Notice shall be afforded all parties, and a hearing shall be held at the request of any party.

Notwithstanding the dispositional order, an agency, facility, or institution to whom custody has been granted under section thirty-two (32), subsection two (2), paragraphs d or e of this Act may terminate the order and discharge the child, modify the order by imposing less restrictive conditions, or vacate the order and substitute a less restrictive order without leave of court.

3. With respect to a dispositional order made pursuant

to section thirty-two (32), subsection two (2), paragraphs d or e of this Act, the court shall, in the absence of objection by the child, grant a motion of a person or agency to whom custody has been transferred for modification of the order by transfer to an equally restrictive placement. If the child objects to the transfer the court may, after notice and hearing, either grant or deny the motion for transfer.

4. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraphs d and e of this Act, the court may, after notice and hearing, either grant or deny a motion of the child, the child's parent or guardian, or the child's guardian ad litem, to terminate the order and discharge the child, to modify the order either by imposing less restrictive conditions or by transfer to an equally or less restrictive placement, or to vacate the order and substitute a less restrictive order. A motion may be made pursuant to this paragraph no more than once every six months.

5. With respect to a dispositional order made pursuant to section thirty-two (32), subsection two (2), paragraphs d and e of this Act, the court may, after notice and a hearing at which there is presented clear and convincing evidence to support such an action, either grant or deny a motion by a county attorney or by a person or agency to whom custody has been transferred, to modify an order by imposing more restrictive conditions or to vacate the order and substitute a more restrictive order.

Notice requirements of this section shall be satisfied in the same manner as for adjudicatory hearings as provided in section seventeen (17) of this Act. At a hearing under this section all relevant and material evidence shall be admitted.

Sec. 35. NEW SECTION. EFFECT OF ADJUDICATION AND DISPOSITION.

1. An adjudication or disposition in a proceeding under this division shall not be deemed a conviction of a crime and shall not impose any civil disabilities or operate to disqualify the child in any civil service application or appointment.

2. The adjudication and disposition of a child and evidence given in a proceeding under this division shall not be admissible as evidence against the child in any subsequent proceeding in any other court before or after reaching majority except in a sentencing proceeding after conviction of a felony.

DIVISION III
CHILD IN NEED OF ASSISTANCE PROCEEDINGS
PART 1

GENERAL PROVISIONS

Sec. 36. NEW SECTION. JURISDICTION.

1. The juvenile court shall have exclusive jurisdiction over proceedings under this Act alleging that a child is a child in need of assistance.

2. In determining such jurisdiction the age and marital status of the child at the time the proceedings are initiated is controlling.

Sec. 37. NEW SECTION. VENUE.

1. Venue for child in need of assistance proceedings shall be in the judicial district where the child is found or in the judicial district of the child's residence.

2. The court may transfer any child in need of assistance proceedings brought under this Act to the juvenile court of any county having venue at any stage in the proceedings as follows:

a. When it appears that the best interests of the child or the convenience of the proceedings shall be served by a transfer, the court may transfer the case to the court of the county of the child's residence.

b. With the consent of the receiving court, the court may transfer the case to the court of the county where the child is found.

3. The court shall transfer the case by ordering the transfer and a continuance and by forwarding to the clerk of the receiving court a certified copy of all papers filed together with an order of transfer. The judge of the receiving court may accept the filings of the transferring court or may direct the filing of a new petition and hear the case anew.

Sec. 38. NEW SECTION. MODIFICATION OF CUSTODY DECREE. During the pendency of an action under this division, a parent without custody pursuant to a decree of dissolution of marriage is estopped from applying for a modification of the custody decree in a court of this state.

PART 2

TEMPORARY REMOVAL OF A CHILD

Sec. 39. NEW SECTION. TEMPORARY REMOVAL OF A CHILD PURSUANT TO EX PARTE COURT ORDER.

1. The juvenile court may enter an ex parte order directing a peace officer to remove a child from his or her home before

or after the filing of a petition under this Act provided:

a. The parent, guardian, or legal custodian is absent, or though present, was asked and refused to consent to the removal of the child and was informed of an intent to apply for an order under this section; and

b. It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health; and

c. There is not enough time to file a petition and hold a hearing under section fifty-one (51) of this Act.

2. The order shall specify the facility to which the child is to be brought. Except for good cause shown or unless the child is sooner returned to the place where he or she was residing, a petition shall be filed under this Act within three days of the issuance of the order.

3. The juvenile court may enter an order authorizing a physician or hospital to provide emergency medical or surgical procedures before the filing of a petition under this Act provided:

a. Such procedures are necessary to safeguard the life and health of the child; and

b. There is not enough time to file a petition under this Act and hold a hearing as provided in section fifty-one (51) of this Act.

4. Any person who may file a petition under this Act may apply for, or the court on its own motion may issue, an order for temporary removal under this section. An appropriate person designated by the court shall confer with a person seeking the removal order, shall make every reasonable effort to inform the parent or other person legally responsible for the child's care of the application, and shall make such inquiries as will aid the court in disposing of such application.

Sec. 40. NEW SECTION. REMOVAL WITHOUT COURT ORDER.

1. A peace officer may remove a child from his or her home or a physician treating a child may keep the child in custody without a court order as required under section thirty-nine (39) of this Act and without the consent of a parent, guardian, or custodian provided that:

a. The child is in such circumstance or condition that his or her continued presence in the residence or in the care or custody of the parent, guardian, or custodian presents an imminent danger to the child's life or health; and

b. There is not enough time to apply for an order under

section thirty-nine (39) of this Act.

2. If a person authorized by this section removes or retains custody of a child, he or she shall:

a. Bring the child immediately to a place designated by the rules of the court for this purpose, unless the person is a physician treating the child and the child is or will presently be admitted to a hospital.

b. Make every reasonable effort to inform the parent, guardian, or custodian of the whereabouts of the child.

c. Promptly inform the court in writing of the emergency removal and the circumstances surrounding the removal.

3. Any person, agency, or institution acting in good faith in the removal or keeping of a child pursuant to this section, and any employer of or person under the direction of such a person, agency, or institution, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as the result of such removal or keeping.

4. When the court is informed that there has been an emergency removal or keeping of a child without a court order, the court shall direct the department of social services or the juvenile probation department to make every reasonable effort to communicate immediately with the child's parent or parents or other person legally responsible for the child's care. The court shall also authorize the department of social services or the juvenile probation department to cause a child thus removed or kept to be returned if it concludes there is not an imminent risk to the child's life and health in so doing. If the child is not returned, the department of social services or the juvenile probation department shall forthwith cause a petition to be filed within three days after the removal.

5. When there has been an emergency removal or keeping of a child without a court order, a physical examination of the child by a licensed medical practitioner shall be performed within twenty-four hours of such removal.

Sec. 41. NEW SECTION. HOMEMAKER SERVICES. A homemaker-home health aide may be assigned to give care to a child in the child's place of residence. Whenever possible, such services shall be provided in preference to removal of the child from the home. Such care may be provided under this Act on an emergency basis for up to twenty-four hours without court order, and may be ordered by the court for a period of time extending until dismissal or disposition of the case. Expenses incurred under this section shall be paid for

according to, and reimbursement from the parent, guardian or custodian may be sought under, the provisions of section seventy-five (75) of this Act.

Sec. 42. NEW SECTION. COMPLAINT.

1. Any person having knowledge of the circumstances may file a complaint with the person or agency designated by the court to perform intake duties alleging that a child is a child in need of assistance.

2. Upon receipt of a complaint, the court may request the department of social services, juvenile probation office, or other authorized agency or individual to conduct a preliminary investigation of the complaint to determine if further action should be taken.

3. A petition alleging the child to be a child in need of assistance may be filed pursuant to section forty-three (43) of this Act provided the allegations of the complaint, if proven, are sufficient to establish the court's jurisdiction and the filing is in the best interests of the child.

4. A person or agency shall not maintain any records with regard to a complaint filed under division three (III) of this Act which is dismissed without the filing of a petition.

PART 3

JUDICIAL PROCEEDINGS

Sec. 43. NEW SECTION. FILING OF A PETITION--CONTENTS OF PETITION.

1. A formal judicial proceeding to determine whether a child is a child in need of assistance under this Act shall be initiated by the filing of a petition alleging a child to be a child in need of assistance.

2. A petition may be filed by the department of social services, probation officer, or county attorney.

3. The department, probation officer, county attorney or judge may authorize the filing of a petition with the clerk of the court by any competent person having knowledge of the circumstances without the payment of a filing fee.

4. The petition shall be submitted in the form specified in section sixteen (16) of this Act.

5. The petition shall contain the information specified in section sixteen (16) of this Act and a clear and concise summary of the facts which bring the child within the jurisdiction of the court under this division.

Sec. 44. NEW SECTION. SUMMONS, NOTICE, SUBPOENAS AND SERVICES. After a petition has been filed the court shall issue and serve summons, notice, subpoenas and other process

in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section seventeen (17) of this Act.

Sec. 45. NEW SECTION. RIGHT TO AND APPOINTMENT OF COUNSEL.

1. Upon the filing of a petition the parent, guardian or custodian identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If that person desires but is financially unable to employ counsel, the court shall appoint counsel.

2. Upon the filing of a petition the court shall appoint counsel for the child identified in the petition as a party to the proceedings, and the court shall appoint a guardian ad litem. The same person may serve both as child's counsel and as guardian ad litem.

Sec. 46. NEW SECTION. DUTIES OF COUNTY ATTORNEY. The county attorney shall represent the state in all proceedings arising from a petition filed under this division and shall present evidence in support of the petition.

Sec. 47. NEW SECTION. PRESENCE OF PARENTS AT HEARINGS. Any hearings or proceedings under this division subsequent to the filing of a petition shall not take place without the presence of the child's parent, guardian or custodian in accordance with and subject to the provisions of section eighteen (18) of this Act. A parent without custody may petition the court to be made a party to proceedings under this division.

Sec. 48. NEW SECTION. EXCLUSION OF PUBLIC FROM HEARINGS. The court shall exclude and admit persons to hearings and proceedings under this division in accordance with and subject to the provisions of section nineteen (19) of this Act.

Sec. 49. NEW SECTION. OTHER ISSUES ADJUDICATED. When it appears during the course of any hearing or proceeding that some action or remedy other than those indicated by the application or pleading appears appropriate, the court may, provided all necessary parties consent, proceed to hear and determine the other issues as though originally properly sought and pleaded.

Sec. 50. NEW SECTION. REPORTER REQUIRED. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings held pursuant to this division unless waived by the parties. The child shall not be competent to waive the reporting requirement, but waiver may be made for the child by the child's counsel or guardian ad litem. Matters which must be reported under the provisions of this section

shall be the same as those required in section six hundred twenty-four point nine (624.9) of the Code.

Sec. 51. NEW SECTION. HEARING CONCERNING TEMPORARY REMOVAL.

1. At any time after the petition is filed any person who may file a petition under section forty-three (43) of this Act may apply for, or the court on its own motion may order, a hearing to determine whether the child should be temporarily removed from home. Where the child is in the custody of a person other than the child's parent, guardian or custodian as the result of action taken pursuant to section thirty-nine (39) or forty (40) of this Act, the court shall hold a hearing to determine whether the temporary removal should be continued.

2. Upon such hearing, the court may:

a. Remove the child from home and place the child in a shelter care facility or in the custody of a suitable person or agency pending a final order of disposition if the court finds that removal is necessary to avoid imminent risk to the child's life or health.

b. Release the child to his or her parent, guardian or custodian pending a final order of disposition.

c. Authorize a physician or hospital to provide medical or surgical procedures if such procedures are necessary to safeguard the child's life or health.

3. The court shall make and file written findings as to the grounds for granting or denying an application under this section.

Sec. 52. NEW SECTION. ADJUDICATORY HEARING.

1. The court shall hear and adjudicate cases involving a petition alleging a child to be a child in need of assistance.

2. The state shall have the burden of proving the allegations by clear and convincing evidence.

3. Only evidence which is admissible under the rules of evidence applicable to the trial of civil cases shall be admitted, except as otherwise provided by this section.

4. A report made to the department of social services pursuant to chapter two hundred thirty-five A (235A) of the Code shall be admissible in evidence if the person making the report does not appear as a witness at the hearing, but such a report shall not alone be sufficient to support a finding that the child is a child in need of assistance unless the attorneys for the child and the parents consent to such a finding.

5. Neither the privilege attaching to confidential communications between a physician and patient nor the prohibition upon admissibility of communications between husband and wife shall be ground for excluding evidence at an adjudicatory hearing.

6. A report, study, record, or other writing made by the department of social services, a juvenile probation officer, a peace officer or a hospital relating to a child in a proceeding under this division shall be admissible notwithstanding any objection to hearsay statements contained therein provided it is relevant and material and provided its probative value substantially outweighs the danger of unfair prejudice to the child's parent, guardian, or custodian. The circumstances of the making of the report, study, record or other writing, including the maker's lack of personal knowledge, may be proved to affect its weight.

7. After the hearing is concluded, the court shall make and file written findings as to the truth of allegations of the petition and as to whether the child is a child in need of assistance.

8. If the court concludes facts sufficient to sustain a petition have not been established by clear and convincing evidence or if the court concludes that its aid is not required in the circumstances, the court shall dismiss the petition.

9. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence and that its aid is required, the court may enter an order adjudicating the child to be a child in need of assistance.

Sec. 53. NEW SECTION. SOCIAL INVESTIGATION AND REPORT.

1. The court shall not make any disposition of the petition until a social report has been submitted to and considered by the court. The court may direct the probation officer, department of social services or any other agency licensed by the state to conduct a social investigation and to prepare a social report.

2. The social investigation may be conducted and the social history may be submitted to the court prior to the adjudication of the child as a child in need of assistance with the consent of the parties.

3. The social report shall not be disclosed except as provided in this section and except as otherwise provided in this Act. Prior to the hearing at which the disposition is determined, the court shall permit counsel for the child

and counsel for the child's parent, guardian or custodian to inspect any social report to be considered by the court. The court may in its discretion order such counsel not to disclose parts of the report to the child, or to the parent, guardian or custodian if disclosure would seriously harm the treatment or rehabilitation of the child or would violate a promise of confidentiality given to a source of information.

Sec. 54. NEW SECTION. PHYSICAL AND MENTAL EXAMINATIONS.

1. A physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section forty-three (43) of this Act and after a hearing to determine whether such an examination is necessary to determine the child's physical or mental condition.

The hearing required by this section may be held simultaneously with the adjudicatory hearing.

An examination ordered prior to the adjudication may be performed on an outpatient basis only. An examination ordered after adjudication shall be conducted on an outpatient basis whenever possible, but if necessary the court may commit the child to a suitable hospital, facility or institution for the purpose of examination for a period not to exceed thirty days. The civil commitment provisions of chapter two hundred twenty-nine (229) of the Code shall not apply to such commitments.

2. Following an adjudication that a child is a child in need of assistance, the court may after a hearing order the physical or mental examination of the parent, guardian or custodian if that person's ability to care for the child is at issue.

Sec. 55. NEW SECTION. DISPOSITIONAL HEARING--FINDINGS.

1. Following the entry of an order pursuant to section fifty-two (52) of this Act, the court shall, as soon as practicable, hold a dispositional hearing in order to determine what disposition should be made of the petition.

2. All relevant and material evidence shall be admitted.

3. When the dispositional hearing is concluded the court shall make the least restrictive disposition appropriate considering all the circumstances of the case. The dispositions which may be entered under this division are listed in sections fifty-six (56) through fifty-eight (58) of this Act in order from least to most restrictive.

4. The court shall make and file written findings as to its reasons for the disposition.

Sec. 56. NEW SECTION. SUSPENDED JUDGMENT. After the

dispositional hearing the court may enter an order suspending judgment and continuing the proceedings subject to terms and conditions imposed to assure the proper care and protection of the child. Such terms and conditions may include the supervision of the child and of the parent, guardian or custodian by the department of social services, juvenile probation office or other appropriate agency designated by the court. The maximum duration of any term or condition of a suspended judgment shall be twelve months unless the court finds at a hearing held during the last month of that period that exceptional circumstances require an extension of the term or condition for an additional six months.

Sec. 57. NEW SECTION. RETENTION OF CUSTODY BY PARENT.

1. After the dispositional hearing, the court may enter an order permitting the child's parent, guardian or custodian at the time of the filing of the petition to retain custody of the child subject to terms and conditions which the court prescribes to assure the proper care and protection of the child. Such terms and conditions may include supervision of the child and the parent, guardian or custodian by the department of social services, juvenile probation office or other appropriate agency which the court designates. Such terms and conditions may also include the provision or acceptance by the parent, guardian or custodian of special treatment or care which the child needs for his or her physical or mental health. If the parent, guardian or custodian fails to provide the treatment or care, the court may order the department of social services or some other appropriate state agency to provide such care or treatment.

2. The duration of any period of supervision or other terms or conditions shall be for an initial period of no more than eighteen months and the court, at the expiration of that period, upon a hearing and for good cause shown, may make not more than two successive extensions of such supervision or other terms or conditions of up to twelve months each.

Sec. 58. NEW SECTION. TRANSFER OF LEGAL CUSTODY OF JUVENILE AND PLACEMENT.

1. After a dispositional hearing the court may enter an order transferring the legal custody of the child to one of the following for purposes of placement:

- a. A relative or other suitable person.
- b. A child placing agency or other suitable private agency, facility or institution which is licensed or otherwise authorized by law to receive and provide care for the child.

c. The department of social services.

2. After a dispositional hearing the court may enter an order transferring the guardianship of the court for the purposes of subsection six (6) of this section, to the commissioner of the department of social services for the purposes of placement in the Iowa Juvenile Home at Toledo.

3. Whenever possible the court should permit the child to remain at home with his or her parent, guardian or custodian. Custody of the child should not be transferred unless the court finds there is clear and convincing evidence that:

a. The child cannot be protected from physical abuse without transfer of custody; or

b. The child cannot be protected from some harm which would justify the adjudication of the child as a child in need of assistance and an adequate placement is available.

4. The child shall not be placed in the Iowa training school for boys or the Iowa training school for girls.

5. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court may prescribe the type of placement which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court.

If the court orders the transfer of the custody of the child to the department of social services or other agency for placement, the department or agency shall submit to the court a specific plan for placement of the child and shall make every effort to return the child to his or her home as quickly as possible. If the court orders the transfer of custody to a relative or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian or custodian in order to enable them to resume custody of the child.

6. The duration of any placement made after an order pursuant to this section shall be for an initial period of six months. At the expiration of that period, the court shall hold a hearing and review the placement in order to determine whether the child should be returned home, an extension of the placement should be made, or a termination of the parent-child relationship proceeding should be instituted. The placement should be terminated and the child returned to his or her home if the court finds by a preponderance of the evidence that the child will not suffer harm in the manner specified in section two (2), subsection five (5), of this

Act. If the placement is extended, the court should determine whether additional services are necessary to facilitate the return of the child to his or her home, and if the court determines such services are needed, the court shall order the provision of such services.

Sec. 59. NEW SECTION. TERMINATION, MODIFICATION, VACATION AND SUBSTITUTION OF DISPOSITIONAL ORDER.

1. At any time prior to expiration of a dispositional order and upon the motion of an authorized party or upon its own motion as provided in this section, the court may terminate the order and discharge the child, modify the order, or vacate the order and make a new order.

2. The following persons shall be authorized to file a motion to terminate, modify or vacate and substitute a dispositional order:

- a. The child.
- b. The child's parent, guardian or custodian, except that such motion may be filed by that person not more often than once every six months except with leave of court for good cause shown.
- c. The child's guardian ad litem.
- d. A person supervising the child pursuant to a dispositional order.
- e. An agency, facility, institution or person to whom legal custody has been transferred pursuant to a dispositional order.
- f. The county attorney.

3. A hearing shall be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section seventeen (17) of this Act. The hearing shall be conducted in accordance with the provisions of section thirty (30) of this Act.

4. The court may terminate an order and release the child if the court finds that the purposes of the order have been accomplished and the child is no longer in need of supervision, care or treatment.

5. The court may modify or vacate an order for good cause shown provided that where the request to modify or vacate is based on the child's alleged failure to comply with the conditions or terms of the order, the court may modify or

vacate the order only if it finds that there is clear and convincing evidence that the child violated a material and reasonable condition or term of the order.

6. If the court vacates the order it may make any other order in accordance with and subject to the provisions of sections fifty-six (56) through fifty-eight (58) of this Act.

DIVISION IV

TERMINATION OF PARENT-CHILD

RELATIONSHIP PROCEEDING

Sec. 60. NEW SECTION. JURISDICTION. The juvenile court shall have exclusive jurisdiction over proceedings under this Act to terminate a parent-child relationship and all parental rights with respect to a child. No such termination shall be ordered except under the provisions of this Act if the court has made an order concerning the child pursuant to the provisions of division three (III) of this Act and the order is in force at the time a petition for termination is filed.

Sec. 61. NEW SECTION. VENUE.

1. Venue for termination proceedings under this Act shall be in the judicial district where the child is found or the judicial district where the child resides except as otherwise provided in subsection two (2) of this section.

2. If a court has made an order concerning the child pursuant to the provisions of this Act and the order is still in force at the time the termination petition is filed, such court shall hear and adjudicate the case unless the court transfers the case.

3. The judge may transfer the case to the juvenile court of any county having venue in accordance with the provisions of section thirty-seven (37) of this Act.

Sec. 62. NEW SECTION. PETITION.

1. A child's guardian or custodian, the department of social services, a juvenile probation officer or the county attorney may file a petition for termination of the parent-child relationship and parental rights with respect to a child as provided in section forty-three (43) of this Act.

2. The department, probation officer, county attorney or judge may authorize any competent person having knowledge of the circumstances to file a termination petition with the clerk of the court without the payment of a filing fee as provided in section forty-three (43) of this Act.

3. A petition for termination of parental rights shall include the following:

a. The legal name, age, and domicile, if any, of the child.

b. The names, residences, and domicile of any:

- (1) Living parents of the child.
- (2) Guardian of the child.
- (3) Custodian of the child.
- (4) Guardian ad litem of the child.
- (5) Petitioner.
- (6) Person standing in the place of the parents of the child.

c. A plain statement of those facts and grounds specified in section sixty-five (65) of this Act which indicate that the parent-child relationship should be terminated.

d. A plain statement explaining why the petitioner does not know any of the information required under paragraphs a and b of this subsection.

e. The signature and verification of the petitioner.

Sec. 63. NEW SECTION. NOTICE-SERVICE.

1. Persons listed in section sixty-two (62), subsection three (3), of this Act shall be necessary parties to a termination of parent-child relationship proceeding and are entitled to receive notice and an opportunity to be heard, except that notice may be dispensed with in the case of any such person whose name or whereabouts the court determines is unknown and cannot be ascertained by reasonably diligent search.

2. Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a minor child if the child does not have a guardian or guardian ad litem or if the interests of the guardian or guardian ad litem conflict with the interests of the child. Such guardian ad litem shall be a necessary party under subsection one (1) of this section.

3. Notice under this section shall be served personally or shall be sent by restricted certified mail, whichever is determined by the court to be the most effective means of notification. Such notice shall be made according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice by personal delivery shall be served not less than seven days prior to the hearing on termination of parental rights. Notice by restricted certified mail shall be sent not less than fourteen days prior to the hearing on termination of parental rights. A notice by restricted certified mail which is refused by the necessary party given notice shall be sufficient notice to the party under this section.

Sec. 64. NEW SECTION. RIGHT TO AND APPOINTMENT OF COUNSEL.

1. Upon the filing of a petition the parent identified in the petition shall have the right to counsel in connection with all subsequent hearings and proceedings. If the parent desires but is financially unable to employ counsel, the court shall appoint counsel.

2. Upon the filing of a petition the court shall appoint counsel for the child identified in the petition as a party to the proceedings. The same person may serve both as the child's counsel and as guardian ad litem.

Sec. 65. NEW SECTION. GROUNDS FOR TERMINATION. Except as provided in subsection six (6) of this section, the court may order the termination of both the parental rights with respect to a child and the relationship between the parents and the child on any of the following grounds:

1. The parents voluntarily and intelligently consent to the termination of parental rights and the parent-child relationship and for good cause desire the termination.

2. The court finds that there is clear and convincing evidence that the child has been abandoned.

3. The court finds that:

a. One or both parents has physically or sexually abused the child; and

b. The court has previously adjudicated the child to be a child in need of assistance after finding the child to have been physically or sexually abused as the result of the acts or omissions of the parent or parents, or the court has previously adjudicated a child who is a member of the same family to be a child in need of assistance after such a finding; and

c. There is clear and convincing evidence that the parents had received or were offered services to correct the situation which led to the abuse.

4. The court finds that:

a. The child has been adjudicated a child in need of assistance pursuant to section fifty-two (52) of this Act; and

b. The custody of the child has been transferred from his or her parents for placement pursuant to section fifty-eight (58) of this Act and such placement has lasted for a period of at least six months, but less than twelve months; and

c. There is clear and convincing evidence that the child cannot be returned to the custody of his or her parents as

provided in section fifty-eight (58) of this Act; and

d. There is clear and convincing evidence that the parents have not maintained contact with the child during the previous six months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so.

5. The court finds that:

a. The child has been adjudicated a child in need of assistance pursuant to section fifty-two (52) of this Act; and

b. The custody of the child has been transferred from his or her parents for placement pursuant to section fifty-eight (58) of this Act for at least twelve months; and

c. There is clear and convincing evidence that the child cannot be returned to the custody of his or her parents as provided in section fifty-eight (58) of this Act.

6. Notwithstanding the provisions of subsections two (2) through five (5) of this section the court need not terminate the relationship between parents and child if the court finds:

a. A relative has legal custody of the child; or

b. The child is over ten years of age and objects to such termination; or

c. There is clear and convincing evidence that such termination would be detrimental to the child at the time due to the closeness of the parent-child relationship; or

d. It is necessary to place the child in a hospital, facility or institution for care and treatment and the continuation of the parent-child relationship is not preventing a permanent family placement for the child.

e. That the absence of a parent is due to the parent's admission or commitment to any institution, hospital or health facility or due to active service in the state or federal armed forces.

Sec. 66. NEW SECTION. TERMINATION--FINDINGS--DISPOSITION.

1. After the hearing is concluded the court shall make and file written findings.

2. If the court concludes that facts sufficient to terminate parental rights have not been established by clear and convincing evidence, the court shall dismiss the petition.

3. If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence, the court may order parental rights terminated. If the court terminates the parental rights of the child's natural or adoptive parents, the court shall transfer the guardianship and custody of the child to one of the following:

- a. The department of social services.
 - b. A child placing agency or other suitable private agency, facility or institution which is licensed or otherwise authorized by law to receive and provide care for the child.
 - c. A relative or other suitable person.
4. If after a hearing the court does not order the termination of parental rights but finds that there is clear and convincing evidence that the child is a child in need of assistance, under section two (2), subsection five (5) of this Act, due to the acts or omissions of one or both of his or her parents the court may adjudicate the child to be a child in need of assistance and may enter an order in accordance with the provisions of sections fifty-six (56), fifty-seven (57) or fifty-eight (58) of this Act.

Sec. 67. NEW SECTION. REMOVAL OF GUARDIAN.

1. Upon application of an interested party or upon the court's own motion, the court having jurisdiction of the child may, after notice to the parties and a hearing, remove a court appointed guardian and appoint a guardian in accordance with the provisions of section sixty-six (66), subsection three (3), of this Act.
2. Any minor fourteen years of age or older who has not been adopted but who is placed in a satisfactory foster home may with the consent of the foster parents join with the guardian appointed by the court in an application to the court to remove the existing guardian and appoint the foster parents as guardians of the child.
3. The authority of a guardian appointed by the court terminates when the child reaches the age of majority or is adopted.

DIVISION V

FAMILY IN NEED OF ASSISTANCE PROCEEDINGS

Sec. 68. NEW SECTION. JURISDICTION. The juvenile court shall have exclusive jurisdiction over family in need of assistance proceedings.

Sec. 69. NEW SECTION. VENUE. Venue for family in need of assistance proceedings shall be determined in accordance with section thirty-seven (37) of this Act.

Sec. 70. NEW SECTION. MODIFICATION OF CUSTODY DECREE. During the pendency of an action under this division, a parent without custody pursuant to a decree of dissolution of marriage is estopped from applying for a modification of the custody decree in a court of this state.

Sec. 71. NEW SECTION. PETITION.

1. A family in need of assistance proceeding shall be initiated by the filing of a petition alleging that a child and his or her parent, guardian or custodian are a family in need of assistance.

2. Such a petition may be filed by the child's parent, guardian or custodian or by the child. The judge, county attorney, or probation officer may authorize such parent, guardian, custodian, or child to file a petition with the clerk of the court without the payment of a filing fee.

3. The petition and subsequent court documents shall be entitled "In re the family of"

4. The petition shall state the names and residences of the child, and his or her living parents, guardian, custodian and guardian ad litem, if any and the age of the child.

5. The petition shall allege that there has been a breakdown in the familial relationship and that the petitioner has sought services from public or private agencies to maintain and improve the familial relationship.

Sec. 72. NEW SECTION. APPOINTMENT OF COUNSEL AND GUARDIAN AD LITEM. The court shall appoint counsel or a guardian ad litem to represent the interests of the child at the hearing to determine whether the family is a family in need of assistance unless the child already has such counsel or guardian. The court shall appoint counsel for the parent, guardian or custodian if that person desires but is financially unable to employ counsel.

Sec. 73. NEW SECTION. HEARING--ADJUDICATION--DISPOSITION.

1. Upon the filing of a petition, the court shall fix a time for a hearing and give notice thereof to the child and the child's parent, guardian or custodian.

2. A parent without custody may petition the court to be made a party to proceedings under this division.

3. The court shall exclude the general public from such hearing except the court in its discretion may admit persons having a legitimate interest in the case or the work of the court.

4. The hearing shall be informal and all relevant and material evidence shall be admitted.

5. The court may adjudicate the family to be a family in need of assistance and enter an appropriate dispositional order if the court finds:

a. There has been a breakdown in the relationship between

the child and his or her parent, guardian or custodian; and

b. The child or his or her parent, guardian or custodian has sought services from public or private agencies to maintain and improve the familial relationship; and

c. The court has at its disposal services for this purpose which can be made available to the family.

6. If the court makes such a finding the court may order any or all of the parties to accept counseling and to comply with any other reasonable orders designed to maintain and improve the familial relationship. At the conclusion of any counseling ordered by the court, or at any other time deemed necessary, the parties shall be required to meet together and be apprised of the findings and recommendations of such counseling. Such an order shall remain in force for a period not to exceed one year unless the court otherwise specifies or sooner terminates the order.

7. The court may not order the child placed on probation, in a foster home or in a nonsecure facility unless the child requests and agrees to such supervision or placement. In no event shall the court order the child placed in the Iowa training school for boys or the Iowa training school for girls or other secure facility.

8. A child who is found in contempt of court because of violation of conditions imposed under section seventy-three (73) of this Act shall not be considered delinquent. Such a contempt may be punished by imposition of a work assignment or assignments to benefit the state or a governmental subdivision of the state. In addition to or in lieu of such an assignment or assignments, the court may impose one of the dispositions set out in sections fifty-six (56) through fifty-eight (58) of this Act.

DIVISION VI

APPEAL

Sec. 74. NEW SECTION. APPEAL.

1. Any interested party aggrieved by any order or decree of the juvenile court may appeal from the court for review of questions of law or fact.

2. The procedure for such appeals shall be governed by the same provisions applicable to appeals from the district court provided that when such order or decree affects the custody of a child the appeal shall be heard at the earliest practicable time.

3. The pendency of an appeal or application therefor shall not suspend the order of the juvenile court regarding a child

and shall not discharge the child from the custody of the court or the agency, association, facility, institution or person to whom the court has transferred legal custody unless the appellate court otherwise orders on application of an appellant.

4. If the appellate court does not dismiss the proceedings and discharge the child, the appellate court shall affirm or modify the order of the juvenile court and remand the child to the jurisdiction of the juvenile court for disposition not inconsistent with the appellate court's finding on the appeal.

DIVISION VII

EXPENSES AND COSTS

Sec. 75. NEW SECTION. EXPENSES CHARGED TO COUNTY.

1. The following expenses upon certification of the judge or upon such other authorization as provided by law are a charge upon the county in which the proceedings are held to the extent provided in subsection four (4) of this section.

- a. The fees and mileage of witnesses and the expenses and mileage of officers serving notices and subpoenas.
- b. The expenses of transporting a child to a place designated by a child placing agency for the care of a child if the court transfers legal custody to a child placing agency.
- c. The expense of transporting a child to or from a place designated by the court.
- d. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.
- e. The expense of treatment or care ordered by the court under an authority of subsection two (2) of this section.

2. Whenever legal custody of a minor is transferred by the court or whenever the minor is placed by the court with someone other than the parents or whenever homemaker-home health aide service is provided under section forty-one (41) of this Act, or whenever a minor is given physical or mental examinations or treatment under order of the court and no provision is otherwise made by law for payment for the care, examination, or treatment of the minor, the costs shall be charged upon the funds of the county in which the proceedings are held upon certification of the judge to the board of supervisors. Except where the parent-child relationship is terminated, the court may inquire into the ability of the parents to support the minor and after giving the parents a reasonable opportunity to be heard may order the parents to pay in the manner and to whom the court may direct, such

sums as will cover in whole or in part the cost of care, examination, or treatment of the minor. An order entered under this section shall not obligate a parent paying child support under a custody decree, except that any part of such a monthly support payment may be used to satisfy the obligations imposed by an order entered under this section. If the parents fail to pay the sum without good reason, the parents may be proceeded against for contempt or the court may inform the county attorney who shall proceed against the parents to collect the unpaid sums or both. Any such sums ordered by the court shall be a judgment against each of the parents and a lien as provided in section six hundred twenty-four point twenty-three (624.23) of the Code. If all or any part of the sums that the parents are ordered to pay is subsequently paid by the county, the judgment and lien shall thereafter be against each of the parents in favor of the county to the extent of such payments.

3. The county charged with the cost and expenses under subsection one (1) or two (2) of this section may recover the costs and expenses from the county where the child has legal settlement by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. Any dispute involving the legal settlement of a child for which the court has ordered payment under authority of this section shall be settled in accordance with sections two hundred fifty-two point twenty-two (252.22) and two hundred fifty-two point twenty-three (252.23) of the Code.

4. Costs incurred under this section shall be paid as follows:

a. The costs incurred under the provisions of section two hundred thirty-two point fifty-two (232.52) of the Code by each county for the fiscal years beginning July 1, 1974, 1975, and 1976 shall be averaged. The average cost for each county shall be that county's base cost for the first fiscal year after the effective date of this Act.

b. Each county shall be required to pay for the first fiscal year after the effective date of this Act an amount equal to its base cost plus an amount equal to the percentage rate of change in the consumer price index as tabulated by the bureau of labor statistics for the current fiscal year times the base cost.

c. A county's base cost for a fiscal year plus the percentage rate of change amount as computed in paragraph b of this subsection shall become that county's base cost for the succeeding fiscal year. The amount to be paid in the succeeding year by the county shall be computed as provided in paragraph b of this subsection.

d. Costs incurred under provisions of this section which are not paid by the county under the provisions of paragraphs a, b and c of this subsection shall be paid by the state.

Sec. 76. NEW SECTION. MAINTENANCE AND COST OF JUVENILE HOMES.

1. County boards of supervisors may either singly or in conjunction with one or more other counties provide and maintain juvenile detention and juvenile shelter care homes.

2. For the purpose of providing and maintaining such a county or multi-county home, the board of supervisors of any county may issue bonds and authorize the expenditure of such amounts as are consistent with the provisions of chapter three hundred forty-five (345) of the Code. The board of supervisors of any county is authorized to levy a tax not to exceed thirteen and one-half cents per thousand dollars of assessed value for the purpose of maintaining such a home. In counties of over one hundred fifty thousand population, the board of supervisors is authorized to levy a tax not to exceed twenty and one-fourth cents per thousand dollars of assessed value for the maintenance of such a home. Expenses for providing and maintaining such a home shall be paid by the county or counties participating in a manner to be determined by board or boards of supervisors of participating counties.

3. Upon request of the board of supervisors, the area education agency shall provide suitable curriculum, teaching staff, books, supplies, and other necessary materials and equipment for the instruction of children of school age who are detained in such a home.

4. Approved county or multi-county juvenile homes shall be entitled to receive financial aid from the state in the amount and in such manner as determined by the commissioner. Aid paid by the state shall not exceed fifty percent of the total cost of the establishment, improvements, operation, and maintenance of such a home.

5. The commissioner shall adopt minimal rules and standards for the establishment, maintenance, and operation of such homes as shall be necessary to effect the purposes of this Act. The commissioner shall, upon request, give guidance

and consultation in the establishment and administration of such homes and programs for such homes.

6. The commissioner shall approve annually all such homes established and maintained under the provisions of this Act. No such home shall be approved unless it complies with minimal rules and standards adopted by the commissioner.

DIVISION VIII

RECORDS

Sec. 77. NEW SECTION. CONFIDENTIALITY OF JUVENILE COURT RECORDS.

1. Juvenile court records shall be confidential. They shall not be inspected and their contents shall not be disclosed except as provided in this section.

2. Official juvenile court records in cases alleging delinquency shall be public records, subject to sealing under section eighty (80) of this Act.

3. Official juvenile court records in all cases except those alleging delinquency may be inspected and their contents shall be disclosed to the following without court order:

a. The judge and professional court staff, including juvenile probation officers.

b. The child and his or her counsel.

c. The child's parent, guardian or custodian, and guardian ad litem.

d. The county attorney and his or her assistants.

e. An agency, association, facility or institution which has custody of the child, or is legally responsible for the care, treatment or supervision of the child.

f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.

g. An appellate court in connection with an appeal pursuant to section seventy-four (74) of this Act.

4. Pursuant to court order official records may be inspected by and their contents may be disclosed to:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

5. Inspection of social records and disclosure of their contents shall not be permitted except pursuant to court order

or unless otherwise provided in this Act.

Sec. 78. NEW SECTION. FINGERPRINTS--PHOTOGRAPHS.

1. Except as provided in this section, a child shall not be fingerprinted by a criminal justice agency after he or she is taken into custody and fingerprint files of children shall not be inspected unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for the commission of a public offense.

2. Fingerprints of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal justice agency investigating the commission of a public offense constituting a felony.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of the age of the child or the nature of the offense. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

4. Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints of a child shall not be placed in any data storage system established and maintained by the department of public safety pursuant to chapter six hundred ninety-two (692) of the Code Supplement, or in any federal depository for fingerprints.

5. Fingerprint files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

6. Fingerprints of a child shall be removed from the file and destroyed if:

a. A petition alleging the child to be delinquent is not filed; or

b. After a petition is filed, the petition is dismissed or the child is found by the court not to be delinquent; or

c. Upon petition by the child when he or she reaches

twenty-one years of age and he or she has not been adjudicated a delinquent nor convicted of committing an aggravated misdemeanor or a felony after reaching sixteen years of age.

7. A child shall not be photographed by a criminal justice agency after he or she is taken into custody without the consent of the court unless the court waives jurisdiction over the child so that he or she may be prosecuted as an adult for the commission of a public offense.

Sec. 79. NEW SECTION. LAW ENFORCEMENT RECORDS.

1. The taking of a child into custody under the provisions of section nine (9) of this Act shall not be considered an arrest.

2. Records and files of a criminal justice agency concerning a child other than fingerprint and photograph records and files shall not be open to inspection and their contents shall not be disclosed except as provided in this section and section eighty (80) of this Act unless the juvenile court waives its jurisdiction over the child so that the child may be prosecuted as an adult for a public offense.

3. Such records may be inspected and their contents may be disclosed without a court order to the following:

a. Peace officers of this state and other jurisdictions when necessary for the discharge of their official duties.

b. The judge and professional staff, including juvenile probation officers, of a juvenile court or of a juvenile or family court in another jurisdiction having the child currently before it in any proceeding.

c. The child, his or her counsel, parent, guardian, custodian and guardian ad litem.

d. The designated representative of any agency, association, facility or institution which has custody of the child, or is responsible for the care, treatment or supervision of the child pursuant to a court order.

e. A court in which the child has been convicted of a public offense in connection with a presentence report or dispositional proceedings.

4. Pursuant to court order such records may be inspected by and their contents may be disclosed to the following:

a. A person conducting bona fide research for research purposes under such conditions as the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

Sec. 80. NEW SECTION. SEALING OF RECORDS.

1. Upon application of a person who was taken into custody for a delinquent act or was the subject of a complaint alleging delinquency or was the subject of a delinquency petition, or upon the court's own motion, the court, after hearing, shall order the records in the case including those specified in sections seventy-seven (77) and seventy-nine (79) of this Act sealed if the court finds that:

a. Two years have elapsed since the final discharge of such person or since the last official action in his or her case if there was no adjudication and disposition; and

b. Such person has not been subsequently convicted of a felony or an aggravated or serious misdemeanor or adjudicated a delinquent child for an act which if committed by an adult would be a felony, an aggravated misdemeanor or a serious misdemeanor and no proceeding is pending seeking such conviction or adjudication.

2. Reasonable notice of the hearing shall be given to the person who is the subject of the records named in the motion, the county attorney, and the agencies having custody of the records named in the application or motion.

3. Notice and copies of a sealing order shall be sent to each agency or person having custody of the records named therein.

4. On entry of a sealing order:

a. All agencies and persons having custody of records which are named therein, shall send such records to the court issuing the order.

b. All index references to sealed records shall be deleted.

5. The sealed records shall no longer be deemed to exist as a matter of law, and the juvenile court and any other agency or person who received notice and a copy of the sealing order shall reply to an inquiry that no such records exist, except when such reply is made to an inquiry pursuant to subsection six (6) of this section.

6. Inspection of sealed records and disclosure of their contents thereafter may be permitted only pursuant to an order of the court upon application of the person who is the subject of such records except that the court in its discretion may permit reports to be inspected by or their contents to be disclosed for research purposes to a person conducting bona fide research under whatever conditions the court deems proper.

Sec. 81. NEW SECTION. CRIMINAL PENALTIES. Any person who knowingly discloses, receives, or makes use or permits

the use of information derived directly or indirectly from the records concerning a child referred to in sections seventy-seven (77) through eighty (80) of this Act except as provided by those sections shall be guilty of a serious misdemeanor.

Sec. 82. Section one hundred six point thirteen (106.13), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

~~Chapter-232~~ This Act shall have no application in the prosecution of offenses committed in violation of this chapter or rules and regulations which are adopted under the authority of this chapter which are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

Sec. 83. Section two hundred thirty-one point three (231.3), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The judge of the juvenile court may appoint a referee in juvenile court proceedings. The referee shall be qualified for his or her duties by training which includes being a licensed attorney and by experience and shall hold office at the pleasure of the judge. The compensation of the referee shall be fixed by the judge. The judge may direct that any case or class of cases arising under ~~chapter-232~~ this Act or chapter 600A shall be heard in the first instance by the referee in the manner provided for the hearing of cases by the court.

Sec. 84. Section two hundred thirty-three point one (233.1), subsection one (1), Code 1977, is amended to read as follows:

1. To encourage any child under eighteen years of age to commit any act of delinquency defined in ~~chapter-232-of this-title~~ this Act.

Sec. 85. Section two hundred thirty-four point thirty-six (234.36), Code 1977, is amended to read as follows:

234.36 WHEN COUNTY TO PAY FOSTER CARE COSTS. Each county shall pay from the county mental health and institutions fund as provided by section 444.12, subsection 2, the cost of foster care for a child placed by a court as provided in ~~section-232-337-subsection-3-or-4,-or-section-232-347-subsection-3-or-4~~ section thirty (30) or section fifty-five (55) of this Act. However, in any fiscal year for which the general assembly appropriates state funds to pay for foster care for children placed by courts under the ~~statutes~~ statute

or sections of this Act cited in this section, the county shall become responsible for these costs only when the funds so appropriated to the department for that fiscal year have been exhausted. The rate of payment by the county or the state, as the case may be, under this section shall be that fixed by the department of social services pursuant to section 234.38.

Sec. 86. Section two hundred thirty-eight point thirty-two (238.32), subsection one (1), Code 1977, is amended to read as follows:

1. Receive children in need of assistance, or delinquent children who are under eighteen years of age, under commitment from the juvenile court, and control and dispose of them subject to the provisions of ~~chapter-232~~ this Act and chapter 600A.

Sec. 87. Section two hundred thirty-eight point forty-one (238.41), Code 1977, is amended to read as follows:

238.41 STATUTES NOT AFFECTED. Nothing contained in sections 238.33 through 238.40 shall be deemed to affect or modify the provisions of ~~chapters-232-and~~ this Act or of chapter 600.

Sec. 88. Section two hundred forty-two point five (242.5), Code 1977, is amended to read as follows:

242.5 PROCEDURE TO COMMIT. The procedure for the commitment of children to the state training school, except as otherwise provided, shall be the same as provided in ~~chapter 232~~ this Act.

Sec. 89. Section two hundred forty-four point four (244.4), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

244.4 PROCEDURE. The procedure for commitment to said homes shall be the same as provided by this Act.

Sec. 90. Section three hundred twenty-one point four hundred eighty-two (321.482), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

It is a misdemeanor for any person to do any act forbidden or to fail to perform any act required by any of the provisions of this chapter unless any such violation is by this chapter or other law of this state declared to be a felony. ~~Chapter 232~~ This Act shall have no application in the prosecution of offenses committed in violation of this chapter which are punishable by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days.

Sec. 91. Section three hundred twenty-one G point fourteen

(321G.14), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

~~Chapter-232~~ This Act shall have no application in the prosecution of offenses which are committed in violation of this chapter, and which are punishable by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

Sec. 92. Section three hundred thirty-six B point two (336B.2), Code 1977 Supplement, is amended to read as follows:

336B.2 FINANCIAL STATEMENT. Before an attorney is appointed under the provisions of sections 68.8, 145.17, 145.19, 222.22, ~~232-28~~ this Act, or rule 8, rules of criminal procedure, or to represent any person charged with a crime in this state, the court shall require the client, or his or her parent, guardian, or custodian to complete under oath a detailed financial statement.

Sec. 93. Section three hundred fifty-six point three (356.3), Code 1977, is amended to read as follows:

356.3 MINORS SEPARATELY CONFINED. Any sheriff, city marshal, or chief of police, having in his or her care or custody any prisoner under the age of eighteen years, shall keep such prisoner separate and apart, and prevent communication by such prisoner with prisoners above that age, while such prisoners are not under the personal supervision of such officer, if suitable buildings or jails are provided for that purpose, unless such prisoner is likely to or does exercise an immoral influence over other minors with whom he or she may be imprisoned.

A person under the age of eighteen years prosecuted under this Act and not waived to criminal court shall be confined in a jail only under the conditions provided in this Act.

PARAGRAPH DIVIDED. Any officer having charge of prisoners who without just cause or excuse neglects or refuses to perform the duties imposed on him or her by this section may be suspended or removed from office therefor.

Sec. 94. Section six hundred A point five (600A.5), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. The following persons may petition a juvenile court for termination of parental rights under this chapter if the child of the parent-child relationship is born or expected to be born within one hundred eighty days of the date of the petition filing:

a. A parent or prospective parent of the parent-child

relationship.

b. A custodian or guardian of the child.

~~c. Any other person who has knowledge of circumstances indicating that the parent-child relationship should be terminated.~~

2. A petition for termination of parental rights shall be filed with the juvenile court in which the guardian or custodian of the child resides or the child or the pregnant woman is domiciled. ~~However,~~ If a juvenile court has made an order pertaining to a minor child under ~~section two-hundred thirty-two-point-thirty-three-(232.33)-of-the-Code~~ division three (III) of this Act and that order is still in force, ~~the petition termination proceedings shall be filed with that juvenile court conducted pursuant to the provisions of division four (IV) of this Act.~~

Sec. 95. Section six hundred A point six (600A.6), subsection one (1), Code 1977, is amended to read as follows:

1. A termination of parental rights under this chapter shall, unless provided otherwise in this section, be effectuated only after notice has been served on all necessary parties and these parties have been given an opportunity to be heard before the juvenile court. A "necessary party" includes any person whose name, residence, and domicile is required to be included on the petition under section six hundred A point five (600A.5), subsection three (3), paragraphs "a" and "b". However, a "necessary party" does not include a natural parent who has been adjudicated to have raped the other natural parent thereby producing the birth of the child designated in section six hundred A point five (600A.5), subsection three (3), paragraph "a".

Sec. 96. Section six hundred A point seven (600A.7), subsection one (1), Code 1977, is amended to read as follows:

1. The hearing on termination of parental rights shall be conducted in accordance ~~to~~ with the provisions of sections ~~232.27, 232.28, 232.30, and 232.32~~ forty-seven (47) through fifty-two (52) of this Act and otherwise in accordance with the rules of civil procedure. Such hearing shall be held not less than one week after the child is born.

Sec. 97. Section six hundred A point eight (600A.8), Code 1977, is amended by striking subsections four (4), five (5), and six (6).

Sec. 98. Section six hundred A point nine (600A.9), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. Subsequent to the hearing on termination of parental rights under this chapter, the juvenile court shall make a finding of facts and shall order that either:

a. The petition be dismissed; or,

~~b. The petition shall not be granted at that time, but that conditions indicating that the child is in need of assistance exist, and an order to that effect is issued pursuant to section two hundred thirty-two point thirty-three (232.33) of the Code; or~~

e b. The petition be granted. The juvenile court shall appoint a guardian and a custodian or a guardian only. An order issued under this paragraph shall include the finding of facts. This finding shall enumerate the factual basis which indicates that the parent-child relationship should be terminated and shall specify how this finding applies to the grounds upon which the termination is ordered.

2. If an order is issued under paragraph e b of subsection one (1) of this section, the juvenile court shall retain jurisdiction to change a guardian or custodian and to allow a terminated parent to request vacation of the termination order if:

a. The child is not on placement for adoption or a petition for adoption of the child is not on file; and,

b. The guardian consents in writing to the vacation. The juvenile court shall grant the vacation request if it is in the best interest of the child.

Sec. 99. Chapter two hundred thirty-two (232), Code 1977, is repealed.

Sec. 100. The supreme court is authorized to propose rules of juvenile procedure for consideration by the first session of the sixty-eighth general assembly. This section shall be effective July 1, 1978. Any rules promulgated under the authority of this section shall become effective July 1, 1979. Thereafter, the rules of juvenile procedure may be amended, provisions deleted, and new rules added, in the manner prescribed for civil rules under chapter six hundred eighty-four (684).

Sec. 101. The provisions of this Act shall become effective July 1, 1979.

Sec. 102. The Code editor shall place the interstate compact, sections two hundred thirty-one point fourteen (231.14) and two hundred thirty-one point fifteen (231.15) of the Code, in this Act as division seven (VII), following division six (VI), appeal. The Code editor shall place the

child abuse, mandatory reporting provisions, sections two hundred thirty-five A point three (235A.3) through two hundred thirty-five A point eleven (235A.11) of the Code in this Act as part two (2) of division three (III).

Approved July 3, 1978

CHAPTER 1089
FOOD STAMP PROGRAM

S. F. 2158

AN ACT relating to the food stamp program, vesting the authority to administer the program in the department of social services, and prescribing penalties for violations.

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

Section 1. Section two hundred thirty-four point one (234.1), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

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

1. "Division" or "state division" means that division of the department of social services to which the commissioner has assigned responsibility for income and service programs.

2. "Director" or "state director" means the director of the division.

3. "County board" means the county board of social welfare appointed pursuant to section two hundred thirty-four point nine (234.9) of the Code.

4. "Child" means a person less than eighteen years of age or a person who is at least eighteen years of age but less than twenty-one years of age who is regularly attending an approved school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational or technical training either as part of a regular school program or under special arrangements adapted to the individual person's needs.

5. "Food programs" means the food stamp and donated foods programs authorized by federal law under the United States department of agriculture.

Sec. 2. Section two hundred thirty-four point six (234.6), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The state director shall be vested with the authority to

administer aid to dependent children, state supplementary assistance, food programs, child welfare, and emergency relief, family and adult service programs and any other form of public welfare assistance and institutions that may hereafter be placed under ~~his~~ the director's administration. He ~~The~~ director shall perform such duties, formulate and make such rules as may be necessary; shall outline such policies, dictate such procedure and delegate such powers as may be necessary for competent and efficient administration. Subject to restrictions that may be imposed ~~upon him~~ by the commissioner of ~~the department of~~ social services and the council of social services, ~~he~~ the director shall have power to abolish, alter, consolidate or establish subdivisions and may abolish or change offices created in connection therewith. He ~~The~~ director may employ necessary personnel and fix their compensation;---~~He~~; may allocate or reallocate functions and duties among any subdivisions now existing or hereafter established;---~~He~~; and may promulgate rules relating to the employment of personnel and the allocation of their functions and duties among the various subdivisions as competent and efficient administration may require.

Sec. 3. Section two hundred thirty-four point six (234.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Administer the food programs authorized by federal law, and recommend rules necessary in the administration of those programs to the commissioner for promulgation pursuant to chapter seventeen A (17A) of the Code.

Sec. 4. Section two hundred thirty-four point eleven (234.11), Code 1977, is amended by striking unnumbered paragraph two (2).

Sec. 5. Chapter two hundred thirty-four (234), Code 1977, is amended by adding the following new section:

NEW SECTION. DEPARTMENT TO PROVIDE FOOD PROGRAMS. The department of social services is authorized to enter into such agreements with agencies of the federal government as are necessary in order to make available to the people of this state any federal food programs which may, under federal laws and regulations, be implemented in this state. Each such program shall be implemented in every county in the state, or in each county where implementation is permitted by federal laws and regulations.

Sec. 6. Chapter two hundred thirty-four (234), Code 1977, is amended by adding the following new section:

NEW SECTION. FRAUDULENT PRACTICES RELATING TO FOOD PROGRAMS. A person is guilty of a fraudulent practice if that person:

1. With intent to gain financial assistance to which that person is not entitled, knowingly makes or causes to be made a false statement or representation or knowingly fails to report to an employee of the department of social services any change in income, resources or other circumstances affecting that person's entitlement to such financial assistance; or

2. As a beneficiary of the food programs, transfers any food stamp coupons or an authorization-to-purchase card to any other individual with intent that such coupons or card be used for the benefit of someone other than persons within the beneficiary's food stamp household as certified by the department of social services; or

3. Knowingly acquires, uses or attempts to use any food stamp coupon or authorization-to-purchase card not issued for the benefit of that person's food stamp household by the department of social services, or by an agency administering food programs in another state.

Approved May 16, 1978

CHAPTER 1090

CHILD ABUSE

H. F. 2404

AN ACT relating to child abuse.

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

Section 1. Section two hundred thirty-five A point one (235A.1), Code 1977, is amended to read as follows:

235A.1 LEGISLATIVE FINDINGS--PURPOSE AND POLICY. Children in this state are in urgent need of protection from ~~physical~~ abuse. It is the purpose and policy of this chapter to provide the greatest possible protection to victims or potential victims of abuse through encouraging the increased reporting of suspected cases of such abuse, insuring the thorough and prompt investigation of these reports, and providing rehabilitative services, where appropriate and whenever possible to abused children and their families which will stabilize the home environment so that the family can remain

intact without further danger to the child.

Sec. 2. Section two hundred thirty-five A point two (235A.2), subsection two (2), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Child abuse" or "abuse" means harm or threatened harm occurring through:

a. Any nonaccidental physical injury, or injury which is at variance with the history given of it, suffered by a child as the result of the acts or omissions of a person responsible for the care of the child.

b. The commission of any sexual abuse with or to a child as defined by chapter seven hundred nine (709) of the Code Supplement, as a result of the acts or omissions of the person responsible for the care of the child.

c. The failure on the part of a person responsible for the care of a child to provide for the adequate food, shelter, clothing or other care necessary for the child's health and welfare when financially able to do so or when offered financial or other reasonable means to do so. A parent or guardian legitimately practicing religious beliefs who does not provide specified medical treatment for a child for that reason alone shall not be considered abusing the child, however this provision shall not preclude a court from ordering that medical service be provided to the child where the child's health requires it.

Sec. 3. Section two hundred thirty-five A point two (235A.2), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. "Person responsible for the care of a child" means:

a. A parent, guardian, or foster parent.

b. A relative or any other person with whom the child resides, without reference to the length of time or continuity of such residence.

c. An employee or agent of any public or private facility providing care for a child, including an institution, group home, mental health center, residential treatment center, shelter care facility, detention center or child care facility.

Sec. 4. Section two hundred thirty-five A point three (235A.3), subsection one (1), Code 1977, is amended to read as follows:

1. The following classes of persons shall make a report, as provided in section 235A.4, of cases of child abuse and ~~willful-neglect-and-child-abuse-suffered-by-a-child-during~~

~~the-care-or-custody-of-the-child-by-a-person-not-listed-in section-235A.27-subsection-2:~~

a. Every health practitioner who examines, attends, or treats a child and who ~~believes-or-has-reason-to-believe-that the-child-has-had-physical-injury-inflicted-on-the-child-as-a-result-of-abuse~~ reasonably believes the child has been abused. If, however, the health practitioner examines, attends, or treats the child as a member of the staff of a hospital or similar institution, the examining health practitioner shall immediately notify and give complete information to the person in charge of the institution or the health practitioner's designated agent and the person in charge of the institution of designated agent shall make the report.

b. Every social worker under the jurisdiction of the department of social services, any social worker employed by a public or private agency or institution, public or private health care facility as defined in section 135C.1, certified psychologist, certificated school employee, employee of a licensed day care facility, member of the staff of a mental health center, or peace officer, who, in the course of employment, examines, attends, counsels or treats a child and ~~believes-or-has-reason-to-believe-that-the-child-has-had-physical-injury-inflicted-on-the-child-as-a-result-of-abuse~~ reasonably believes a child has suffered abuse. Whenever such person is required to report under this section as a member of the staff of a public or private institution, agency or facility, that person shall immediately notify the person in charge of such institution, agency or facility, or that person's designated agent and the person in charge of the institution, agency, or facility, or the designated agent shall make the report.

Sec. 5. Section two hundred thirty-five A point three (235A.3), subsection two (2), Code 1977, is amended to read as follows:

2. Any other person who believes that ~~a-child-has-had-physical-injury-inflicted-upon-him-as-a-result-of-abuse~~ a child has been abused may make a report as provided in section 235A.4.

Sec. 6. Section two hundred thirty-five A point five (235A.5), subsection five (5), Code 1977, is amended to read as follows:

5. The department of social services, upon completion of its investigation, shall make a ~~complete-written-report~~

~~of its investigation of a report of suspected abuse. A copy of this report shall be transmitted to the juvenile court within ninety-six hours after the department of social services initially receives the abuse report~~ preliminary report of its investigation as required by section two hundred thirty-five A point five (235A.5), subsection two (2). A copy of this report shall be transmitted to juvenile court within ninety-six hours after the department of social services initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report unless the juvenile court grants an extension of time for good cause shown. The juvenile court shall notify the registry of any action it takes with respect to a suspected case of child abuse.

Sec. 7. Section two hundred thirty-five A point five (235A.5), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. In every case involving child abuse which results in a child protective judicial proceeding, whether or not the proceeding arises under this chapter, a guardian ad litem shall be appointed by the court to represent the child in such proceedings. Before a guardian ad litem is appointed pursuant to the provisions of this Act, the court shall require the person responsible for the care of the child to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the person responsible for the care of the child is able to bear the cost of the guardian ad litem, the court shall so order. In cases where the person responsible for the care of the child is unable to bear the cost of the guardian ad litem, the expense shall be paid out of the court expense fund.

Sec. 8. Section two hundred thirty-five A point eleven (235A.11), Code 1977, is amended to read as follows:

235A.11 PHOTOGRAPHS AND X RAYS. Any person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs or X rays of the areas of trauma visible on a child. Any health practitioner may, if medically indicated, cause to be performed radiological examination of the child. Any person who takes any photographs or X rays pursuant to this section shall notify the department of social services that such photographs or X rays have been

taken, and shall retain such photographs or X rays for a reasonable time thereafter. Whenever such person is required to report under section 235A.3, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of such institution, agency, or facility or that person's designated delegate of the need for photographs or X rays.

Sec. 9. Section two hundred thirty-five A point fifteen (235A.15), subsection two (2), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. In an individual case, to the mandatory reporter who reported the child abuse.

Sec. 10. Section two hundred thirty-five A point fifteen (235A.15), subsection two (2), paragraph e, Code 1977, is amended to read as follows:

e. To an authorized person or agency having responsibility for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or the registry deems access to child abuse information by such person or agency to be necessary.

Approved June 23, 1978

CHAPTER 1091

REFORMATORY INMATES SENTENCES

S. F. 2202

AN ACT specifying that good and honor time earned and not forfeited shall apply to reduce a mandatory minimum sentence and providing for consecutive sentences.

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

Section 1. Section two hundred forty-six point thirty-eight (246.38), Code 1977, is amended to read as follows:

246.38 TIME TO BE SERVED--CREDIT. No ~~convict~~ inmate shall be discharged from the penitentiary or the men's or women's reformatory until he or she has served the full term for which he the inmate was sentenced, less good time earned and not forfeited, unless he-be the inmate is pardoned or otherwise legally released. He Any provision to the contrary notwithstanding, good time earned and not forfeited shall apply to reduce a mandatory minimum sentence being served

pursuant to section two hundred four point four hundred six (204.406), two hundred four point four hundred thirteen (204.413), nine hundred two point seven (902.7), nine hundred two point eight (902.8), or nine hundred six point five (906.5) of the Code Supplement. The inmate shall be deemed to be serving his or her sentence from the day on which he the inmate is received into the institution, but not while in solitary confinement for violation of the rules of the institution; provided, however, if a convict an inmate had been confined to a county jail or other correctional or mental institution at any time prior to sentencing, or after sentencing but prior to his the case having been decided on appeal, because of failure to furnish bail or because of being charged with a nonbailable offense, he the inmate shall be given credit for such days already served in jail upon the term of his the sentence. The clerk of the district court of the county from which the convict inmate was sentenced, shall certify to the warden the number of days so served.

Sec. 2. Section two hundred forty-six point thirty-nine (246.39), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any provision to the contrary notwithstanding, a person serving a mandatory minimum sentence pursuant to section two hundred four point four hundred six (204.406), two hundred four point four hundred thirteen (204.413), nine hundred two point seven (902.7), nine hundred two point eight (902.8), or nine hundred six point five (906.5) of the Code Supplement shall be entitled to a reduction of the minimum sentence under this section.

Sec. 3. Section two hundred forty-six point forty-three (246.43), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any provision to the contrary notwithstanding, a person serving a mandatory minimum sentence pursuant to section two hundred four point four hundred six (204.406), two hundred four point four hundred thirteen (204.413), nine hundred two point seven (902.7), nine hundred two point eight (902.8), or nine hundred six point five (906.5) of the Code Supplement shall be eligible for a special reduction of the minimum sentence under this section.

Sec. 4. Chapter nine hundred one (901), Code 1977 Supplement, is amended by adding the following new section:

NEW SECTION. CONSECUTIVE SENTENCES. If a person is sentenced for two or more separate offenses, the sentencing

judge may order the second or further sentence to begin at the expiration of the first or succeeding sentence. If a person is sentenced for escape under section seven hundred nineteen point four (719.4) of the Code Supplement or for a crime committed while confined in a detention facility or penal institution, the sentencing judge shall order the sentence to begin at the expiration of any existing sentence. If consecutive sentences are specified in the order of commitment, the several terms shall be construed as one continuous term of imprisonment.

Sec. 5. This Act, being deemed of immediate importance, shall take effect and be in force retroactive to January 1, 1978 to apply to persons sentenced on or after January 1, 1978.

Approved June 2, 1978

CHAPTER 1092

WOMEN'S REFORMATORY AND SECURITY MEDICAL FACILITY

H. F. 2018

AN ACT to clarify the applicability of certain sections to the women's reformatory and the Iowa security medical facility.

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

Section 1. Chapter two hundred forty-six (246), Code 1977, is amended by adding the following new section:

NEW SECTION. APPLICABILITY TO OTHER INSTITUTIONS. The provisions of sections two hundred forty-six point thirty-three (246.33), two hundred forty-six point thirty-eight (246.38), two hundred forty-six point thirty-nine (246.39), two hundred forty-six point forty-one (246.41), two hundred forty-six point forty-two (246.42), and two hundred forty-six point forty-three (246.43) of the Code shall also apply to the inmates at the women's reformatory and the Iowa security medical facility.

Approved March 10, 1978

CHAPTER 1093
INMATE WORK RELEASE

S. F. 2103

AN ACT permitting an inmate to be placed on work release for longer than six months in any twelve-month period.

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

Section 1. Section two hundred forty-seven A point five (247A.5), Code 1977, is amended to read as follows:

247A.5 HOUSING FACILITIES. The department shall designate and adopt facilities in the institutions and camps under its jurisdiction for the housing of inmates granted work release privileges. In areas where facilities are not within reasonable proximity of the place of employment of an inmate so released, the department may contract with the proper authorities of political subdivisions of the state or suitable public or private agencies for the quartering of the inmate in local housing facilities. The committee shall include as a specific term or condition in the work release plan of any inmate the place where the inmate is to be housed when not on the work assignment. The committee shall not place an inmate on work release for longer than six months in any twelve-month period provided, however, that an inmate may be placed on work release for a period in excess of six months in any twelve-month period if unanimous approval is given by the committee. Inmates may be temporarily released to the supervision of a responsible person to participate in family and selected community, religious, educational, social, civic and recreational activities when it is determined that the participation will directly facilitate the release transition from institution to community.

Sec. 2. This Act is effective January 1, 1979.

Approved May 16, 1978

CHAPTER 1094

MEDICAL ASSISTANCE PAYMENTS RECOVERED

S. F. 2190

AN ACT creating in the department of social services the right of subrogation to recover payments made under the medical assistance program.

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

Section 1. Chapter two hundred forty-nine A (249A), Code 1977, is amended by adding the following new section:

NEW SECTION. SUBROGATION.

1. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of any recipient, the department shall be subrogated, to the extent of those payments, to all monetary claims which the recipient may have against third parties as a result of the medical care or expenses received or incurred. No compromise, including but not limited to a settlement, waiver or release, of any claim to which the department is subrogated under this section shall defeat the department's right of recovery except pursuant to the written agreement of the commissioner or the commissioner's designee.

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

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

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

c. Any attorney representing an applicant for or recipient of assistance on a claim to which the department is subrogated under this section shall notify the department of the claim prior to filing any claim, commencing any action or negotiating any settlement offer.

3. The subrogation rights of the department shall be valid and binding on an insurer or other third party only upon

notice by the department or unless the insurer or third party has actual notice that the recipient is receiving medical assistance from the department and only to the extent to which such insurer or third party has not made payment to the recipient or an assignee of the recipient prior to such notice. Payment of benefits by an insurer or third party pursuant to the subrogation rights hereunder shall discharge such insurer or third party from liability to the recipient or the recipient's assignee to the extent of such payment to the department.

4. In the event a recipient of assistance through the medical assistance program incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department is subrogated under this section, the amount which the department is entitled to recover under subsection one (1) of this section, or any lesser amount which the department may agree to accept in compromise of its claim, shall be reduced by an amount which bears the same relation to the total amount of attorney fees and court costs actually paid by the recipient as the amount actually recovered by the department, exclusive of the reduction for attorney fees and court costs, bears to the total amount paid by the third party to the recipient. An attorney acting on behalf of a recipient of medical assistance for the purpose of enforcing a claim to which the department is subrogated shall not collect from the recipient any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this section.

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

Sec. 2. This Act shall take effect January 1, 1979.

Approved June 12, 1978

CHAPTER 1095

AREA EDUCATION AGENCIES

H. F. 463

AN ACT relating to education by revising the board membership of area schools and area education agencies, and by revising the financing and operation of area education agencies and special education programs, and to make an appropriation.

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

Section 1. Section two hundred fifty-seven point ten (257.10), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Approve the salaries for area education agency administrators set by the area education agency boards.

Sec. 2. Section two hundred seventy-three point two (273.2), Code 1977, is amended by adding the following new unnumbered paragraph after unnumbered paragraph one (1).

NEW UNNUMBERED PARAGRAPH. An area education agency established under the provisions of this chapter is a body politic as a school corporation for the purpose of exercising powers granted under this chapter, and as such may sue and be sued. An area education agency may hold property and execute lease-purchase agreements pursuant to the provisions of section two hundred seventy-three point three (273.3), subsection seven (7), of the Code and if the purchase price of the property to be acquired pursuant to the lease-purchase agreement exceeds five thousand dollars, the lease-purchase agreement must be approved at the regular school election or a special election held throughout the area education agency. Section two hundred seventy-seven point three (277.3) of the Code is applicable to an election called under this section by the board of directors of an area education agency.

Sec. 3. Section two hundred seventy-three point two (273.2), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The area education agency board shall furnish educational services and programs ~~to the local school districts~~ as provided in sections 273.1 to 273.9 and chapter 281 to the pupils enrolled in public or nonpublic schools located within its boundaries which are on the list of approved schools pursuant to section two hundred fifty-seven point twenty-five (257.25) of the Code. The programs and services provided shall be

at least commensurate with programs and services existing on July 1, 1974. The programs and services provided to pupils enrolled in nonpublic schools shall be comparable to programs and services provided to pupils enrolled in public schools within constitutional guidelines.

Sec. 4. Section two hundred seventy-three point two (273.2), subsections three (3) and five (5), Code 1977, are amended to read as follows:

3. Research, demonstration projects and models, and educational planning for children under five years of age through grade twelve and children requiring special education as defined in section 281.2 as approved by the department state board of public instruction.

5. Other educational programs and services for children under five years through grade twelve and children requiring special education as defined in section 281.2 and for employees of school districts and area education agencies as approved by the department state board of public instruction.

Sec. 5. Section two hundred seventy-three point three (273.3), subsections three (3), five (5), eight (8), nine (9), ten (10), twelve (12), and thirteen (13), Code 1977, are amended to read as follows:

3. Provide data and prepare reports as directed by the superintendent of public instruction and the state board.

5. Be authorized, subject to rules and regulations of the department state board of public instruction, to provide directly or by contractual arrangement with public or private agencies for special education programs and services, media services, and other educational programs and services requested by the local boards of education as provided in this chapter, including but not limited to contracts for the area education agency to provide programs or services to the local school districts and contracts for local school districts, other educational agencies, and public and private agencies to provide programs and services to the local school districts in the area education agency in lieu of the area education agency providing such services. Contracts may be made with public or private agencies located outside the state if the programs and services comply with the rules of the department state board. The cost of such programs and services for each child shall not exceed the amount of money available through the area education agency of the child's residence for each child under chapters 281 and 442.

8. Be authorized, subject to the approval of the department state board of public instruction, to enter into agreements for the joint use of personnel, buildings, facilities, supplies and equipment with school corporations as deemed necessary to provide authorized programs and services.

9. Be authorized to make application for, accept, and expend state and federal funds that are available for programs of educational benefit approved by the department state board of public instruction, and co-operate with the department and the state board in the manner provided in federal-state plans or department rules in the effectuation and administration of programs approved by the department, or approved by other educational agencies, which agencies have been approved as a state educational authority.

10. In any county operating a juvenile home, upon request of the county board of supervisors ~~in co-operation with and at the expense of the school districts of residence of the children residing in the home~~, provide suitable curriculum, teaching staff, books, supplies, and other necessary materials for the instruction of children of school age who are maintained in the juvenile home of the county, as provided in section 232.21. Reimbursement for the cost of instruction provided under this section shall be made pursuant to the first new section in section twelve (12) of the Act.

12. Employ such personnel as may be required, ~~if any~~, to carry out the functions of the area education agency which ~~may~~ shall include the employment of an administrator who shall possess a ~~superintendent's~~ certificate issued under the provisions of section 260.9. The administrator shall be employed pursuant to the provisions of section ~~279.44~~ two hundred seventy-nine point twenty (279.20) of the Code and the provisions of sections 279.23, 279.24, and 279.25. The salary ~~range~~ for an area education agency administrator shall be ~~from seventeen thousand dollars to twenty-seven thousand five hundred dollars per annum, including~~ established by the board based upon the previous experience and education of the administrator, subject to the salary limitations provided in this subsection. For the school year beginning July 1, 1978, the annual salary of an administrator shall not exceed twenty-nine thousand dollars if the area education agency has an approved budget for that year of less than seven million dollars and shall not exceed thirty thousand dollars if the area education agency has an approved budget for that year

of seven million dollars or more. For each school year thereafter, the annual salary established for an administrator shall not exceed one hundred percent, plus a percent equal to one-half of the state percent of growth established in section four hundred forty-two point seven (442.7) of the Code for the budget year, times the salary granted by the board for the preceding year for the administrator of that area education agency. The salary shall include the costs of additional benefits, over and above the additional benefits given all full-time employees. The provisions of section 279.13 shall apply to the area education agency board and to all teachers employed by the area education agency. The provisions of sections 279.23, 279.24, and 279.25 shall apply to the area education board and to all administrators employed by the area education agency. Salary rates established by the board shall be subject to the approval of the state board.

13. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 281. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county located wholly or partially in the merged area. The notice shall specify the date which shall be not later than November tenth of each year, time, and location of the public hearing. The proposed budget as approved by the board shall then be submitted to the department state board of public instruction, on forms provided by the department, no later than December 4 first preceding the next fiscal year for approval. The state board shall forward copies of the budgets of the area education agencies to the state comptroller. The state board and the state comptroller shall establish a maximum statewide amount for approved budgets for the area education agencies. If the state board and the state comptroller cannot agree upon a maximum statewide amount, that amount shall be established by the school budget review committee. The department state board shall review the proposed budget of each area education agency with consideration given to the maximum statewide amount established pursuant to this subsection, and shall prior to January 1 first either grant approval or return the budget without approval with comments of the department state board included. Any unapproved budget shall be resubmitted to the department state board for final approval.

Sec. 6. Section two hundred seventy-three point three

(273.3), Code 1977, is amended by striking subsection eighteen (18).

Sec. 7. Section two hundred seventy-three point four (273.4), subsection three (3), Code 1977, is amended to read as follows:

3. Submit program plans each year to the department of public instruction, for approval by the state board of public instruction, to reflect the needs of the area education agency for media services as provided in section 273.6.

Sec. 8. Section two hundred seventy-three point six (273.6), subsection two (2), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Program plans submitted by the area education agency to the department of public instruction for approval by the state board of media centers under this subsection shall include all of the following:

Sec. 9. Section two hundred seventy-three point eight (273.8), subsection one (1), Code 1977, is amended to read as follows:

1. BOARD OF DIRECTORS. The board of directors of an area education agency shall consist of the same number of directors as are authorized to serve on the board of the merged area under the provisions of chapter 280A, within the area being served by the area education agency. The members of the area education agency board shall be elected from director districts in the manner provided in this section. Each director shall serve a three-year term which expires on the first Monday in October ~~7-except-that-directors-elected-at-the-initial-election-to-take-office-on-October-7-1974-7-shall-determine-their-respective-terms-by-lot-so-that-the-terms-of-one-third-of-the-members-7-as-nearly-as-may-be-7-shall-expire-on-the-first-Monday-of-October-of-each-succeeding-year.~~

Commencing with the director district conventions held in 1981, the board of directors of an area education agency shall consist of nine members.

Sec. 10. Section two hundred seventy-three point eight (273.8), subsection two (2), unnumbered paragraphs three (3) and six (6), Code 1977, are amended to read as follows:

The director district conventions shall be called and the locations of the conventions shall be determined by the area education agency administrator. Annually the director district conventions shall be held within two weeks following the regular school election. Notice of the time, date and place of the a director district conventions convention shall be

published by the area education agency administrator at least forty-five days prior to the day of the district conventions in at least one newspaper of general circulation in ~~the-merged area~~ the director district. The cost of publication shall be paid by the area education agency.

A candidate for election to the area education agency board may file a statement of candidacy with the area education agency secretary at least ten days prior to the date of the director district convention, on forms prescribed by the department of public instruction. The statement of candidacy shall include the candidate's name, address and school district. The list of candidates shall be sent by the secretary of the area education agency by ordinary mail to the presidents of the boards of directors of all school districts within the director district immediately following the last day for filing the statement of candidacy. The filing of a statement of candidacy shall not be a prerequisite or eligibility requirement for election as an area education agency director. ~~For-the-initial-director-district-convention the-statement-of-candidacy-shall-be-filed-with-the-county superintendent-who-determines-the-date-and-location-of-the district-convention-and-he-shall-send-the-list-of-candidates to-the-presidents-of-the-school-boards.~~ Delegates to director district conventions shall not be bound by a school board or any school board member to pledge their votes to any candidate prior to the date of the convention.

Sec. 11. Section two hundred seventy-three point nine (273.9), subsections three (3), four (4), and five (5), Code 1977, are amended to read as follows:

3. The costs of special education support services provided through the area education agency shall be funded by an increase in the allowable growth of each school district, determined as provided in section 442.7. Special education support services shall not be funded until the program plans submitted by the special education directors of each area education agency as required by section 273.5 are modified as necessary and approved by the ~~department~~ state board of public instruction according to the criteria and limitations of chapter 281 and section 442.7.

4. The costs of media services provided through the area education agency shall be funded as provided in section 442.27. Media services shall not be funded until the program plans submitted by the administrators of each area education agency

as required by section 273.4 are modified as necessary and approved by the department state board of public instruction according to the criteria and limitations of section 273.6 and of section 442.27.

5. The costs of ~~ether~~ educational services provided through the area education agency shall be funded within the limitations in section 442.27. The department state board of public instruction shall promulgate rules under chapter 17A, as necessary to implement performance of its approval duties under this section.

Sec. 12. Chapter two hundred seventy-three (273), Code 1977, is amended by adding the following new sections:

NEW SECTION. APPROPRIATION FOR REIMBURSEMENT OF INSTRUCTIONAL COSTS OF CHILDREN IN JUVENILE HOMES. The administrator of each area education agency shall determine annually the cost of instruction provided under section two hundred seventy-three point three (273.3), subsection ten (10), of the Code to a child of school age maintained in a juvenile home located in the area. The administrator shall certify the total yearly audited cost of instruction and the amount due for instruction, to the superintendent of public instruction not later than September first of each year for the preceding fiscal year. The state board of public instruction shall review the amount due and submit a requisition to the state comptroller. The amount due shall be paid by the treasurer of state to the area education agency from any funds in the general fund of the state not otherwise appropriated upon warrants drawn and signed by the state comptroller.

NEW SECTION. Funds generated for educational services under the provisions of section four hundred forty-two point twenty-seven (442.27) of the Code and subject to approval under the provisions of section two hundred seventy-three point nine (273.9), subsection five (5), of the Code shall not be expended by an area education agency for the purpose of assisting either a public employer or employee organization in collective bargaining negotiations under chapter twenty (20) of the Code if the public employer is a school district, or the employee organization consists of employees of a school district, located within the boundaries of the area education agency.

Sec. 13. NEW SECTION. DIRECTOR DISTRICTS. The commission established in chapter two hundred eighty A (280A) of the Code to redraw boundary lines following each federal decennial

census shall establish nine director districts for the area education agency, which are coterminous* with the director districts for the board of directors of the merged area board, based upon census information obtained from the census of 1980 for use at the regular director district conventions held in 1981. If an area education agency board had five members in 1980, two additional members of the board shall be elected for two-year terms and two additional members of the board shall be elected for three-year terms. If an area education agency board had seven members in 1980, one additional member shall be elected for a two-year term and one additional member shall be elected for a three-year term. The terms of office of the additional members shall be determined by lot. Changes in the boundary lines of director districts shall not be construed as having the effect of lengthening or diminishing the term of office of any member of the board as a result of the changes in the boundary lines of director districts.

Sec. 14. Section two hundred eighty A point five (280A.5), subsection thirteen (13), Code 1977, is amended to read as follows:

13. The boundaries of director districts ~~which shall number not less than five or more than nine~~ if such districts have been agreed upon. Director districts shall be of approximately equal population.

Sec. 15. Section two hundred eighty A point twelve (280A.12), Code 1977, is amended to read as follows:

280A.12 GOVERNING BOARD. The governing board of a merged area shall be a board of directors composed of one member elected from each director district in the area by the electors of the respective district. Members of the board shall be residents of the district from which elected. Successors shall be chosen at the annual school elections for members whose terms expire on the first Monday in October following such elections. Terms of members of the board of directors shall be three years ~~except that members of the initial board of directors elected at the special election shall determine their respective terms by lot so that the terms of one-third of the members, as nearly as may be, shall expire on the first Monday in October of each succeeding year.~~ Vacancies on the board which occur more than ninety days prior to the next regular school election may be filled at the next regular meeting of the board by appointment by the remaining members

*According to enrolled Act

of the board. A member so chosen shall be a resident of the district in which the vacancy occurred and shall serve until a member shall be elected pursuant to section 69.12 to fill the vacancy for the balance of the unexpired term. A vacancy shall be defined as in section 277.29. No member shall serve on the board of directors who is a member of a board of directors of a local school district or a member of an area education agency board.

Commencing with the regular school election in 1981, the governing board of a merged area shall consist of nine members.

Sec. 16. Section two hundred eighty A point twenty-three (280A.23), Code 1977, is amended by striking subsection two (2).

Sec. 17. Section two hundred eighty A point twenty-five (280A.25), subsection two (2), Code 1977, is amended to read as follows:

2. Change boundaries of director districts in any merged area when the ~~board-of-directors-of-the-area commission~~ fails to change boundaries as required ~~under-section-289A-23, subsection-2~~ by law.

Sec. 18. Chapter two hundred eighty A (280A), Code 1977, is amended by adding the following new section:

NEW SECTION. BOUNDARIES OF DIRECTOR DISTRICTS. Boundary lines of director districts in the merged areas shall be redrawn after each census to compensate for changes in population if such population changes have taken place. A commission for the purpose of redrawing the boundary lines of the director districts of a merged area, composed of members of the boards of directors of each of the school districts located in the merged area, shall be called by the chairperson of the board of the merged area as soon as possible after census information is available. The chairperson of the board of the merged area shall preside over the commission but shall not have a vote on the commission. In votes of the commission, the vote of the board of the least populous school district in the merged area shall have a weight of one unit and the vote of the boards of each of the other school districts in the merged area shall have a weight which bears the same proportion to one unit as the population of the school district bears to the population of the least populous school district in the merged area.

Where feasible, boundary lines of director districts shall coincide with the boundary lines of school districts and the boundary lines of election precincts established pursuant

to sections forty-nine point three (49.3) to forty-nine point six (49.6) of the Code.

Director districts shall be of approximately equal population within each merged area.

Sec. 19. NEW SECTION. REDRAWING DIRECTOR DISTRICTS.

The commission established in this chapter to redraw boundary lines following each federal decennial census shall establish nine director districts for its merged area based upon census information obtained from the census of 1980 for use at the regular school election in 1981. If a merged area board had five members in 1980, two additional members of the board shall be elected for two-year terms and two additional members of the board shall be elected for three-year terms. If a merged area board had seven members in 1980, one additional member shall be elected for a two-year term and one additional member shall be elected for a three-year term. The terms of office of the additional members shall be determined by lot. Changes in the boundary lines of director districts shall not be construed as having the effect of lengthening or diminishing the term of office of any member of the board as the result of the changes of the boundary lines of director districts.

Sec. 20. Section two hundred eighty-one point two (281.2), subsection two (2), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

"Special education" means classroom, home, hospital, institutional, or other instruction designed to meet the needs of children requiring special education as defined in subsection 1; transportation and corrective and supporting services required to assist children requiring special education, as defined in subsection 1, in taking advantage of, or responding to, educational programs and opportunities, as defined by rules of the department state board of public instruction.

Sec. 21. Section two hundred eighty-one point four (281.4), unnumbered paragraphs one (1), two (2), and three (3), Code 1977, are amended to read as follows:

The board of directors of any school district or area education agency, with the approval of the state department board of public instruction, may provide special education programs and services as defined in this chapter. If services are provided by the area education agency, with the approval of the department state board of public instruction, the board of directors of the area education agency with the co-operation

of the local school districts within its jurisdiction may:

The board of directors of the local district or the area education agency shall employ qualified teachers certified by the authority provided by law as teachers for children requiring such special education. The maximum number of pupils per teacher shall be determined by the board of directors of the local district or the area education agency board in accordance with the rules and regulations of the state department board of public instruction.

The board of directors of the local district or the area education agency may establish and operate one or more special education centers to provide diagnostic, therapeutic, corrective, and other services, on a more comprehensive, expert, economic and efficient basis than can be reasonably provided by a single school district. Such services, if offered by the area education agency board, may be provided in the regular schools using personnel and equipment of the area education agency or, whenever it is impractical or inefficient to provide them on the premises of a regular school, the area education agency may provide services in its own facilities. To the maximum extent feasible, such centers shall be established at and in conjunction with, or in close proximity to one or more elementary and secondary schools. Local districts or the area education agencies may accept diagnostic and evaluation studies conducted by other individuals, hospitals, or centers, if determined to be competent. Children requiring special education services may be identified in any way that the department of public instruction, as approved by the state board of public instruction, determines to be reliable. Centers established pursuant to this section may contain classrooms and other educational facilities and equipment to supplement instruction and other services to handicapped children in the regular schools, and to provide separate instruction to children whose degree or type of educational handicap makes it impractical or inappropriate for them to participate in classes with normal children.

Sec. 22. Section two hundred eighty-one point seven (281.7), Code 1977, is amended to read as follows:

281.7 EXAMINATIONS OF CHILDREN. In order to render proper instruction to each child requiring special education, the school districts shall certify children requiring special education for special instruction in accordance with the requirements set up by the division of special education and

shall provide examinations for children preliminary to making certification. The examinations necessary for the certification of children requiring special education shall be prescribed by the state division of special education. Final decision in case of disagreement or appeal shall be the responsibility of the state superintendent board of public instruction, ~~who~~ which may secure the advice of competent medical and educational authorities including the state department of health, the university hospitals, the state department of social welfare, the superintendent of the state school for the deaf, the superintendent of the Iowa braille and sight-saving school, and the superintendent of the state tuberculosis sanatorium.

Sec. 23. Section two hundred eighty-one point nine (281.9), subsection four (4), Code 1977, is amended to read as follows:

4. On December 1, 1975, and no later than December 4 first every two years thereafter, for the school year commencing the following July 4 first, the superintendent of public instruction shall report to the school budget review committee the average costs of providing instruction for children requiring special education in the categories of the weighting plan established under this section, and the state board of public instruction shall make recommendations to the school budget review committee for needed alterations to make the weighting plan suitable for subsequent school years. The school budget review committee shall establish the weighting plan for each school year after the school year commencing July 1, 1975, and shall report the plan to the superintendent of public instruction. The school budget review committee shall not alter the weighting assigned to pupils in a regular curriculum, but it may increase or decrease the weighting assigned to each category of children requiring special education by not more than two-tenths of the weighting assigned to pupils in a regular curriculum. The ~~department~~ state board of public instruction shall promulgate rules under chapter 17A, to implement the weighting plan for each year and to assist in identification and proper indexing of each child in the state who requires special education.

Sec. 24. Section two hundred eighty-one point nine (281.9), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Commencing with the school year beginning July 1, 1976, costs of special education instructional programs include the costs of purchase of transportation equipment to meet the special needs of children requiring special

education and for each school year subsequent to the school year beginning July 1, 1977 the inclusion of such costs shall be subject to the approval of the state board of public instruction. Unencumbered funds generated for special education instructional programs for the school year beginning July 1, 1975 and for the school year beginning July 1, 1976 shall not be expended for such purposes unless approved by the department based upon applications received by the department prior to January 1, 1978 and approved prior to April 1, 1978.

Commencing with the school year beginning July 1, 1976, a school district may expend an amount not to exceed two-sevenths of an amount equal to the district cost of a school district for the costs of regular classroom instruction of a child certified under the special education weighting plan in section two hundred eighty-one point nine (281.9), subsection one (1), paragraph b, Code 1977, as a handicapped pupil who is enrolled in a special class, but who receives part of his or her instruction in a regular classroom. Unencumbered funds generated for special education instructional programs for the school year beginning July 1, 1975 and for the school year beginning July 1, 1976 shall not be expended for such purpose.

Commencing with the school year beginning July 1, 1975, funds generated for special education instructional programs under chapters two hundred eighty-one (281) and four hundred forty-two (442) of the Code shall not be expended for modifications of school buildings to make them accessible to children requiring special education. Unencumbered funds generated for special education instructional programs for the school years beginning July 1, 1975 and July 1, 1976, shall not be expended for such purpose unless approved by the department of public instruction based upon applications received by the department prior to January 1, 1978 and approved prior to April 1, 1978.

Sec. 25. Section two hundred eighty-one point eleven (281.11), Code 1977, is amended to read as follows:

281.11 PROGRAM PLANS. Program plans submitted to the department of public instruction pursuant to section 273.5 for approval by the state board of public instruction shall establish all of the following:

1. That there are sufficient children requiring special education within the area.
2. That the service or program will be provided by the

most appropriate educational agency.

3. That the educational agency providing the service or program has employed qualified special educational personnel.

4. That the instruction is a natural and normal progression of a planned course of instruction.

5. That all revenue raised for support of special education instruction and services is expended for actual delivery of special education instruction or services.

6. Other factors as the department state board may require.

Sec. 26. Chapter two hundred eighty-one (281), Code 1977, is amended by adding the following new section:

NEW SECTION. CHILDREN PLACED BY DISTRICT COURT.

Notwithstanding the provisions of section two hundred eighty-two point twenty-seven (282.27) of the Code, a child who has been identified as requiring special education who has been placed in a facility or home by the district court, and for whom parental rights have been terminated by the district court, shall receive special education programs and services on the same basis as the programs and services are provided for children requiring special education who are residents of the school district in which the child has been placed. The special education instructional costs shall be certified to the superintendent of public instruction not later than September first of each year for the preceding fiscal year by the area education agency director of special education of the district in which the child has been placed. The state board of public instruction shall review the costs and submit a requisition to the state comptroller. The amount due shall be paid by the treasurer of state to the school district or agency providing the program from any funds in the general fund of the state not otherwise appropriated upon warrants drawn and signed by the state comptroller.

Sec. 27. Section two hundred eighty-two point twenty-seven (282.27), Code 1977, is amended to read as follows:

282.27 PAYMENT FOR CERTAIN CHILDREN. When a child requiring special education is living in a state-supported institution, charitable institution, or licensed boarding home as defined in this chapter which does not maintain a school and the residence of the child requiring special education is in a school district other than the school district in which the state-supported institution, charitable institution, or licensed boarding home is located, the child is eligible for special education programs and services provided for children requiring special education who are

residents of the school district in which the institution or boarding home is located. The special education instructional costs shall be computed by means of weighted enrollment for that child under the provisions of chapters 273, 281, and 442 as if that child were a resident of the school district in which the institution or boarding home is located but the child shall be included in the enrollment count in the district of residence in the manner provided in sections 281.9 and 442.4. The costs as computed shall be paid by the district of residence. No child requiring special education shall be denied special education programs and services because of a dispute over determination of residence of that child. If there is a dispute over the residence of the child cannot-be-determined,-the-district-in-which-the-institution-or-boarding-home-is-located-shall provide-the-special-education-programs-and-services-appropriate-for-that-child-and-shall-compute-the-costs-by-means-of-the-weighted-enrollment-and-may-apply-to-the-school-budget-review-committee-for-reimbursement-until-the-dispute-over-residence-of-the-child-is-resolved, the state board of public instruction shall determine the residence of the child. However, if the special education instructional costs incurred on behalf of the child exceed the amount which would be allowed if the child were provided the programs and services in the district of residence, the treasurer of the school district of residence shall make payment at the maximum amount allowed in that district for a child requiring special education who is similarly handicapped. If the child requiring special education is not counted in the weighted enrollment of any district under section 281.9, and payment is not made by any district, the district in which the institution or boarding home is located may make-application-for-reimbursement-from-the-school-budget-review-committee certify the special education instructional costs to the superintendent of public instruction not later than September first of each year for the preceding fiscal year. The state board of public instruction shall review the costs and submit a requisition to the state comptroller. The amount due shall be paid by the treasurer of state to the district in which the institution or licensed boarding home is located from any funds in the general fund of the state not otherwise appropriated upon warrants drawn and signed by the state comptroller. For the purposes of this section, the term "district of residence

of the child" means the residence of the parent or legal guardian, or the location of the district court if the district court is the legal guardian, of the child.

Sec. 28. Section four hundred forty-two point one (442.1), Code 1977, is amended to read as follows:

442.1 STATE SCHOOL FOUNDATION PROGRAM. This chapter establishes a state school foundation program. For each school year, each school district in the state is entitled to receive state school foundation aid, which shall be an amount per pupil equal to the difference between the amount per pupil of foundation property tax in the district, and the state foundation base or the district cost per pupil, whichever is less. However, if the amount so determined for any district is less than two hundred dollars per pupil, the district is entitled to receive not less than two hundred dollars per pupil. However, if the receipt of two hundred dollars by a school district plus the money raised by the foundation property tax exceeds the maximum allowed district cost for the budget year, the district shall be entitled to receive in state foundation aid an amount equal to the difference between the money raised by the foundation property tax for the budget year and the district cost for the budget year. In making computations and payments under this chapter, except in the case of computations relating to funding of special education support services, media services and ~~other~~ educational services provided through the area education agencies, the state comptroller shall round amounts to the nearest whole dollar.

Sec. 29. Section four hundred forty-two point two (442.2), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. For the school year beginning July 1, 1978, and for each subsequent school year, if an area education agency does not serve nonpublic school pupils in a manner comparable to services provided public school pupils for media and educational services, as determined by the state board of public instruction, the state board shall instruct the state comptroller to reduce the funds for media services and educational services one time by an amount to compensate for such reduced services. The media services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for media services in the budget year times the difference between the enrollment served and the basic enrollment recorded for the area for the budget

year beginning July 1, 1975. The educational services budget shall be reduced by an amount equal to the product of the cost per pupil in basic enrollment for educational services in the budget year times the difference between the enrollment served and the basic enrollment recorded for the budget year beginning July 1, 1975.

The provisions of this subsection shall apply only to media and educational services which cannot be diverted for religious purposes.

Notwithstanding the provisions of this subsection, an area education agency shall distribute to nonpublic schools media materials purchased wholly or partially with federal funds in a manner comparable to the distribution of such media materials to public schools as determined by the state board of public instruction.

Sec. 30. Section four hundred forty-two point seven (442.7), subsection seven (7), paragraphs d and e, Code 1977, are amended to read as follows:

d. For each year following the school year beginning July 1, 1975, by adding to the basic allowable growth an amount to compensate for the additional costs of special education support services provided through the area education agency. ~~The~~ For the school years beginning July 1, 1978 and July 1, 1979 only, the total amount for each area shall be based-upon the-amount-needed-in-the-area-to-serve-children-newly-identified-as-requiring-the-services-pursuant-to-plans submitted-by-the-special-education-director-of-the-area education-agency-as-required-by-section-273.5, which shall be-modified-as-necessary-and-approved-by-the-department-of public-instruction-according-to-the-criteria-and-limitations of-section-273.5-and-chapter-284 equal to the total amount approved for special education support services for the base year times one hundred percent plus the state percent of growth. In addition to the amount provided in this paragraph to each area for the school years beginning July 1, 1978 and July 1, 1979 to compensate for the additional costs of special education support services, each area may be granted by the state board an additional amount to serve children newly-identified as requiring the services pursuant to plans submitted by the special education director of the area education agency as required by section two hundred seventy-three point five (273.5) of the Code. The total of additional amounts granted throughout the state by the state board for the school year beginning July 1, 1978 shall not exceed the

total amount approved for special education support services for the school year beginning July 1, 1977 times four and eighty-seven hundredths percent, and for the school year beginning July 1, 1979 shall not exceed the total amount approved for special education support services for the school year beginning July 1, 1978 times three percent. For the school year beginning July 1, 1980 and each school year thereafter the total amount for the state for special education support services shall not exceed the total amount approved for special education support services for the base year times one hundred percent plus the state percent of growth, and the total amount for each area shall be determined by the state board of public instruction pursuant to plans submitted by the special education director of the area education agency as required by section two hundred seventy-three point five (273.5) of the Code, which shall be modified as necessary and approved by the state board of public instruction according to the criteria and limitations of section two hundred seventy-three point five (273.5) and chapter two hundred eighty-one (281) of the Code and within the total amount for the state provided in this paragraph. The amount of additional allowable growth per pupil for the budget year for each district in an area shall be determined by dividing the total amount for the area so determined by the weighted enrollment of the area for the budget year.

e. For the additional allowable growth computed under paragraphs "c" ~~or~~ and "d" of this subsection, the department state board of public instruction, in co-operation with the appropriate personnel of the area education agency, shall determine the amounts for each area education agency, as required and the state comptroller shall calculate the amounts of additional allowable growth for each district necessary to fund the total special education support services costs as increased for the budget year under paragraph "d" of this subsection, and shall calculate the amounts due from each district to its area education agency by multiplying the additional allowable growth per pupil necessary to fund the total special education support services costs as increased for the budget year under paragraph "d" of this subsection by the weighted enrollment in the district for the budget year. The state comptroller shall deduct the amounts so calculated for each school district from the state aid due to the district pursuant to this chapter and shall pay the amounts to the area education agencies on a quarterly basis

during each school year. The state comptroller shall notify each school district of the amount of state aid deducted for this purpose and the balance of state aid will be paid to the district. If a district does not qualify for state aid under this chapter in an amount sufficient to cover its amount due to the area education agency as calculated by the state comptroller, the school district shall pay the deficiency to the area education agency from other moneys received by the district, on a quarterly basis during each school year.

Sec. 31. Section four hundred forty-two point nine (442.9), subsection one (1), paragraph b, Code 1977, is amended to read as follows:

b. The district cost for the budget year is equal to the district cost per pupil for the budget year multiplied by the weighted enrollment, plus the additional cost allocated to the district under section 442.27 to fund media services and other educational services provided through the area education agency. A school district may not increase its district cost for the budget year except to the extent that an excess tax levy is authorized by the school budget review committee as provided in section 442.13, subsection 7.

Sec. 32. Section four hundred forty-two point thirteen (442.13), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The committee shall review the budget of each school district which has a positive balance of funds raised for weighted enrollment in excess of the district cost per pupil received for special education instruction programs which were not validly encumbered during the school year in which the funds were received. The committee may reduce the property tax levy of the school district for the budget year by the amount of the carry-over special education instruction funds which were property tax during the year of receipt in the school year prior to the base year. If the committee reduces the property tax to be levied, it shall reduce the state aid to be received by the school district for the budget year by the state aid portion of the special education instruction funds carried over from the school year prior to the base year. The committee shall notify the comptroller of the combined property tax and state aid adjustments to be made under this subsection.

Sec. 33. Section four hundred forty-two point thirteen (442.13), subsection five (5), Code 1977, is amended by adding

the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Unusual needs for additional funds for special education instruction in excess of the special education instruction funds generated under the provisions of section two hundred eighty-one point nine (281.9) of the Code, for districts that do not carry over a positive balance of special education instruction funds which were not encumbered during the year of receipt.

Sec. 34. Section four hundred forty-two point twenty-seven (442.27), unnumbered paragraph one (1), is amended to read as follows:

Media services and ~~other~~ educational services provided through the area education agencies shall be funded, to the extent provided, by an addition to the district cost of each school district, determined as follows:

Sec. 35. Section four hundred forty-two point twenty-seven (442.27), Code 1977, is amended by striking subsections two (2) and three (3) and inserting in lieu thereof the following:

2. For the school year beginning July 1, 1978 and each succeeding budget year, the total amount funded for each area for media services excluding the cost for media resource material shall be the total amount funded in the area for media service in the base year times the sum of one hundred percent plus the state percent of growth plus the costs for media resource material for the budget year.

Each year subsequent to the school year beginning July 1, 1980, the total amount to be funded for media services, including the costs for media resource material which shall only be used for the purchase or replacement of material required in section two hundred seventy-three point six (273.6), subsection one (1), paragraphs a, b and c, of the Code, shall be equal to the budget in the base year in the area times the sum of one hundred percent plus the state percent of growth.

3. a. However, for the budget year beginning July 1, 1978, each area in which the amount funded for media services per pupil without inclusion of the costs for media resource material is less than the maximum media service cost per pupil for the enrollment served during the budget year, that area shall receive additional funding for equalization purposes as provided in this paragraph. Each such area shall be funded, in addition to the amount funded under the provisions of subsection two (2) of this section, an amount equal to one-

third of the difference between the product of the maximum media service cost per pupil times the enrollment served in the budget year in the area and that amount the area is eligible to receive for media services other than for media resource material under subsection two (2) of this section. For the budget year beginning July 1, 1979, each area in which the amount funded for media services, other than for media resource material, is less than the maximum media service cost per pupil for the enrollment served in the area in the budget year, in addition to the amount funded for media services other than media resource material under the provision of subsection two (2) of this section, shall be funded at an amount equal to one-half of the difference between the product of the maximum media service cost per pupil times the enrollment served in the budget year in the area and that amount the district is eligible to receive under subsection two (2) of this section for media services other than for media resource material. For the budget year beginning July 1, 1980, each area shall be funded at that amount generated by multiplying the maximum media service cost per pupil times the enrollment served in the area for the budget year.

For the purposes of this section "maximum media service cost per pupil" means, for the school year beginning July 1, 1978, one hundred percent plus the state percent of growth times eight dollars without inclusion of the cost for media resource material. For each succeeding school year prior to the school year beginning July 1, 1981, the "maximum media service cost per pupil" without inclusion of the cost of media resource material shall be equal to the one hundred percent plus the state percent of growth for the budget year times the maximum media service cost per pupil for the base year.

b. In addition to the funding provided for media services under subsections one (1) and two (2) of this section and paragraph a of this subsection, for the school year beginning July 1, 1978, an amount shall be funded to be added to media service funds for each area for purchase and replacement of media resource material required in section two hundred seventy-three point six (273.6), subsection one (1), paragraphs a, b and c, of the Code. The amount shall be equal to three dollars times the enrollment served in the area in the budget year. For each succeeding school year subsequent to the school year beginning July 1, 1978, and prior to the school year beginning July 1, 1981, the amount to fund media resource

material, which shall only be used for the purchase and replacement of material required in section two hundred seventy-three point six (273.6), subsection one (1), paragraphs a, b and c, of the Code, shall be equal to the total amount funded in the area for media resource material in the base year times the sum of one hundred percent plus the state percent of growth.

Sec. 36. Section four hundred forty-two point twenty-seven (442.27), subsections four (4) through nine (9), Code 1977, are amended to read as follows:

4. For the budget year beginning July 1, 1975, the total amount funded in each area for ~~other~~ educational services shall be an amount equal to ten dollars times the enrollment served in the area in the budget year.

5. For each succeeding budget year, the total amount funded in each area for ~~other~~ educational services shall be the total amount funded in the area for ~~other~~ educational services in the base year times the sum of one hundred percent plus the state percent of growth. ~~Part-of-the-amount-funded-for-other-services-may-be-used-by-the-area-education-agencies-for-nonrecurring-media-costs-for-the-school-year-beginning-July-1-1975.~~

6. Of the total amounts funded in each area each year for media services and ~~other~~ educational services, a portion shall be allocated to each district in the area. The portion to be allocated to each district in an area shall be the same percentage of the total amount that the enrollment served in the budget year in the district is of the enrollment served in the budget year in the area.

7. The portion allocated to each district in an area each budget year for media services and ~~other~~ educational services shall be added to the district cost of that district for the budget year as provided in section 442.9.

8. The ~~department~~ state board of public instruction and the state comptroller shall determine the total amounts funded in each area for media services and ~~other~~ educational services each year, and the amounts to be allocated to each district. The state comptroller shall deduct the amounts so calculated for each school district from the state aid due to the district pursuant to this chapter and shall pay the amounts to the districts' area education agencies on a quarterly basis during each school year. The state comptroller shall notify each school district the amount of state aid deducted for this purpose and the balance which will be paid to the district.

If a district does not qualify for state aid under this chapter in an amount sufficient to cover the amount due to its area education agency as calculated by the state comptroller, the school district shall pay the deficiency to its area education agency from other moneys received by the district, on a quarterly basis during each school year.

9. "Enrollment served" means the basic enrollment plus the number of nonpublic school pupils served with media services or ~~other~~ educational services, as applicable, except that if a nonpublic school pupil receives services through an area other than the area of the pupil's residence, the pupil shall be deemed to be served by the area of his residence, which shall by contractual arrangement reimburse the area through which the pupil actually receives services. For the budget year beginning July 1, 1975, the total number of nonpublic pupils served by each area education agency and the number of nonpublic school pupils residing within each school district in the area to be served by the area education agency for media and ~~other~~ educational services shall be submitted by the department of public instruction as approved by the state board to the state comptroller within one week after this Act is duly published. For school years subsequent to the school year beginning July 1, 1975, each school district shall include in the second Friday in January enrollment report the number of nonpublic school pupils within each school district for media and ~~other~~ educational services served by the area.

Sec. 37.

1. The purpose of this section is to reduce the school district balances for special education instruction programs which were not expended for special education instruction.

2. For the purposes of this section, "unencumbered special education instruction funds" means those funds received by a school district for special education instruction programs for the school years beginning July 1, 1975, July 1, 1976, and July 1, 1977, for special education instruction which were not encumbered prior to January 1, 1978, or which were not an approved expenditure by the department of public instruction based upon applications for approval received by the department prior to January 1, 1978. The unencumbered special education instruction funds shall be those funds received for special education instruction programs based on funds raised for weighted enrollment in excess of the district cost per pupil times the adjusted enrollment in the

year of receipt.

3. The state comptroller shall reduce the total state aid to be received by a school district in the school year beginning July 1, 1978, by sixty-five percent of the unencumbered special education instruction funds of the district. The amount shall be certified to the state comptroller by the department of public instruction upon request by the state comptroller.

4. Notwithstanding the provisions of section four hundred forty-two point nine (442.9) of the Code, for the school year beginning July 1, 1978, the state comptroller shall reduce for each school district the amount of property tax to be levied for the school year by an amount equal to thirty-five percent of the unencumbered special education instruction funds.

5. Notwithstanding subsections three (3) and four (4) of this section, a school district receiving the minimum state aid under the provisions of section four hundred forty-two point one (442.1) of the Code, shall have the state aid to be received for the budget year beginning July 1, 1978, reduced by the portion of unencumbered special education instruction funds that two hundred dollars per pupil is of the school district's district cost per pupil for the school year beginning July 1, 1977. The property tax to be levied for the school district shall be reduced by the unencumbered special education instruction funds remaining after reduction for the state aid portion of such funds as provided in this subsection.

6. There is appropriated to the school budget review committee the sum of one million three hundred thousand (1,300,000) dollars, or so much thereof as may be necessary for the fiscal year commencing July 1, 1978 and ending June 30, 1979 from funds in the general fund of the state resulting from reduced state foundation aid to school districts for the school year beginning July 1, 1978 because of the reduction of state aid under subsections three (3) and five (5) of this section. The funds shall be distributed by the school budget review committee as supplemental aid to school districts which demonstrate unusual need for additional funds for special education instructional programs, and such supplemental aid shall be miscellaneous income and shall not be included in district cost.

7. There is appropriated to the school budget review committee the sum of two hundred thousand (200,000) dollars,

or so much thereof as may be necessary for the fiscal year commencing July 1, 1978 and ending June 30, 1979 from funds in the general fund of the state for either the purposes set forth in subsection six (6) of this section or for general fund expenditures of the local school district as approved by the school budget review committee.

Sec. 38. Notwithstanding the provisions of chapters two hundred seventy-three (273), two hundred eighty-one (281), and four hundred forty-two (442) of the Code, relating to the allocation of the special education support services costs to the school districts for the school year beginning July 1, 1978, and ending June 30, 1979, the state comptroller shall reduce the amount to be allocated among the school districts in each area education agency by the following balances. The following amounts shall be used by the area education agency to fund the reduction in special education support services costs allocated to the school districts in each area. The amount of the special education support services cost to be reduced for each area shall be equal to:

Area 1	\$ 702,897
Area 2	\$ 138,774
Area 3	\$ 151,271
Area 4	\$ 143,285
Area 6	\$ 552,907
Area 7	\$ 590,770
Area 9	\$ 168,557
Area 10	\$ 3,117
Area 11	\$ 919,888
Area 12	\$ 202,677
Area 13	\$ 121,120
Area 14	\$ 45,291
Area 15	\$ 204,561

The state comptroller shall reduce the state cost per pupil for the school year beginning July 1, 1978 and ending June 30, 1979, by the average special education support services cost reduction per pupil in weighted enrollment computed by dividing the sum of the special education support services cost reductions provided in this section by the weighted enrollment in the state. The state comptroller shall reduce the foundation base for only the school year beginning July 1, 1978 and ending June 30, 1979, computed under section four hundred forty-two point three (442.3) of the Code, prior to reductions in special education support services costs under

this section, by the amount per pupil in weighted enrollment that the state cost per pupil in weighted enrollment is reduced under this section. The state comptroller shall reduce each school district cost per pupil by the amount of the special education support services cost reduction per pupil in weighted enrollment in the area computed by dividing the reduction in the area of the special education support services cost by the weighted enrollment in the area.

Sec. 39. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in *The Sun & The Hawkeye Record-Herald*, a newspaper published in Mount Vernon, Iowa, and in the *Lenox Time Table*, a newspaper published in Lenox, Iowa.

Approved June 13, 1978

I hereby certify that the foregoing Act, House File 463, was published in *The Sun & The Hawkeye Record-Herald*, Mount Vernon, Iowa on June 22, 1978 and in the *Lenox Time Table*, Lenox, Iowa on June 22, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1096

SCHOOL DISTRICT REORGANIZATION

H. F. 2359

AN ACT relating to reorganization procedures for school districts.

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

Section 1. Section two hundred fifty-seven point twenty-five (257.25), subsection eleven (11), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The state board of public instruction shall remove for cause, after due investigation and notice, any school or school district from the approved list which fails to comply with such approval standards and rules in the manner prescribed in this subsection. The state board shall allow a reasonable period of time after notification of noncompliance, not to exceed the following school year, for compliance with such approval standards and rules. ~~if-the-school-or-school-district-is-making-a-good-faith-effort-and-substantial-progress-toward-full-compliance-and-if-the-failure-to-comply-is-due-to-factors~~

~~beyond-the-control-of-the-board-of-directors-or-governing
body-of-such-school-or-school-district-additional-time-may
be-granted.--in-allowing-such-time-for-compliance, the-board
shall-follow-consistent-policies, taking-into-account-the
circumstances-of-each-case.--The-reasonable-period-of-time
for-compliance-shall-not-exceed-the-one-year-notice-requirement
of-subsection-42.~~

Sec. 2. Section two hundred seventy-five point one (275.1), Code 1977, is amended to read as follows:

275.1 DECLARATION OF POLICY--SURVEYS. It is declared to be the policy of the state to encourage ~~the reorganization of school districts into such units as are necessary,~~ economical and efficient and school districts which will insure an equal educational opportunity to all children of the state. All area areas of the state shall be in school districts maintaining twelve grades. If any school district ceases to maintain twelve grades, it shall ~~merge-with-a contiguous-school-district~~ reorganize within six months or the state board shall attach the school district not maintaining twelve grades to ~~a-contiguous~~ another district. Voluntary reorganizations under this chapter shall be commenced only if the affected school districts are contiguous to one another. A reorganized district shall meet the requirements of section two hundred seventy-five point three (275.3) of the Code.

If a district is attached, division of assets and liabilities shall be made as provided in sections 275.29 to 275.31. The area education agency boards ~~may-initiate~~ shall develop detailed studies and surveys of the school districts within the area education agency and all adjacent territory for the purpose of ~~promoting~~ providing for reorganization of school districts in order to effect more economical operation and the attainment of higher standards of education in the schools. The plans shall be revised periodically to reflect reorganizations which may have taken place in the area education agency and adjacent territory.

Sec. 3. Section two hundred seventy-five point two (275.2), Code 1977, is amended to read as follows:

275.2 SCOPE OF SURVEYS. The scope of such studies and surveys shall include the following matters in the various districts in the county area education agency and all districts adjacent to the area education agency: The adequacy of the educational program, average daily attendance of pupils, property valuations, existing buildings and equipment, natural

community areas, road conditions, transportation, economic factors, individual attention given to the needs of students, the opportunity of students to participate in a wide variety of activities related to the total development of the student, and such other matters that may bear on educational programs meeting minimum standards required by law.

Sec. 4. Section two hundred seventy-five point three (275.3), Code 1977, is amended to read as follows:

275.3 MINIMUM STANDARDS. No new school district shall be planned by an area education agency board nor shall any proposal for creation or enlargement of any school district be approved by an area education agency board or submitted to electors unless there reside within the proposed limits of such district at least three hundred persons of school age who were enrolled in public schools in the preceding school year. Provided, however, that the state superintendent of public instruction shall have authority to grant permission to an area education agency board to approve the formation or enlargement of a school district containing a lower school population enrollment than ~~above-provided~~ required in this section on the written request of such area education agency board if such request is accompanied by evidence tending to show that sparsity of population, natural barriers or other good reason makes it impracticable to meet ~~said~~ the school population enrollment requirement.

Sec. 5. Section two hundred seventy-five point four (275.4), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

In ~~making-any~~ developing studies and surveys the area education agency board shall consult with the officials of affected districts and other citizens, and shall from time to time hold public hearings, and may employ such research and other assistance as it may determine reasonably necessary in order to properly carry on its survey and prepare definite plans of reorganization.

Sec. 6. Section two hundred seventy-five point four (275.4), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

In addition, the area education agency board shall consult with the superintendent of public instruction in the development of surveys and plans. The superintendent of public instruction shall provide assistance to the area education agency boards as requested and shall advise the

area education agency boards concerning plans of contiguous area education agencies and the reorganization policies adopted by the state board of public instruction.

Completed plans shall be transmitted by the area education agency board to the superintendent of public instruction.

Sec. 7. Section two hundred seventy-five point five (275.5), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

275.5 PROPOSALS FOR MERGER OR CONSOLIDATION. Any proposal for merger, consolidation, or boundary change of local school districts shall first be submitted to the area education agency board following the procedure prescribed in this chapter. Following receipt of a petition pursuant to section two hundred seventy-five point twelve (275.12) of the Code, the area education agency board shall review its plans and determine whether the petition complies with the plans which had been adopted by the board. If the petition does not comply with the plans which had been adopted by the board, the board shall conduct further surveys pursuant to section two hundred seventy-five point four (275.4) of the Code prior to the date set for the hearing upon the petition.

Sec. 8. Section two hundred seventy-five point eight (275.8), unnumbered paragraph one (1) and subsection two (2), Code 1977, are amended to read as follows:

275.8 CO-OPERATION OF STATE DEPARTMENT--PLANNING JOINT DISTRICTS. ~~The state department of public instruction shall co-operate with the several area education agency boards in making studies and surveys.~~ Planning of joint districts shall be conducted in the same manner as planning for single districts, except as provided in this section. Studies and surveys relating to the planning of joint districts shall be filed with the area education agency in which one of the districts is located which has the greatest taxable property base. In the case of controversy over the planning of joint districts, the matter shall be submitted to the state board of public instruction ~~judicial.~~ Judicial review of and its decision may be sought in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said Act, petitions for judicial review must be filed within thirty days after the decision of the state board of public instruction. Joint districts shall mean districts that lie in two or more adjacent area education agencies.

2. Adoption of such plan at a joint session of the several

area education agency boards in whose areas such territory is situated. Votes of each member of an area education agency board shall be weighted so that the total number of votes eligible to be cast by members of each board shall be equal.

Sec. 9. Section two hundred seventy-five point fourteen (275.14), Code 1977, is amended to read as follows:

275.14 OBJECTION--TIME OF FILING--NOTICE. Within ten days after the petition is filed, the area education agency administrator shall fix a final date for filing objections to the petition which shall be not more than sixty days after the petition is filed and shall fix the date for a hearing on the objections to the petition. Objections shall be filed in the office of the administrator, and who shall give notice for at least ten days prior to the final day for filing objections, by one publication in a newspaper published within the territory described in the petition, or if none is published therein, in a newspaper published in the county where the petition is filed, and of general circulation in the territory described. The notice shall also list the date, time, and location for the hearing on the petition as provided in section two hundred seventy-five point fifteen (275.15) of the Code. The cost of publication shall be assessed to each district whose territory is involved in the ratio that the number of pupils in basic enrollment, as defined in section 442.4 in each district bears to the total number of pupils in basic enrollment in the total area involved. Objections shall be in writing in the form of an affidavit and may be made by any person residing or owning land within the territory described in the petition, or who would be injuriously affected by the change petitioned for and shall be on file not later than twelve o'clock noon of the final day fixed for filing objections.

Sec. 10. Section two hundred seventy-five point fifteen (275.15), Code 1977, is amended to read as follows:

275.15 HEARING--DECISION--PUBLICATION OF ORDER. ~~On the final day fixed for filing objections~~ At the hearing, which shall be held within ten days of the final date set for filing objections, interested parties, both petitioners and objectors, may present evidence and arguments, and the area education agency board shall review the matter on its merits and within five days after the conclusion of any hearing, shall rule on the objections and shall enter an order fixing such boundaries for the proposed school corporation as will in its judgment be for the best interests of all parties

concerned, having due regard for the welfare of adjoining districts or dismiss the petition. The area education agency board, when entering the order fixing the boundaries, shall consider requests for boundary line changes of property owners who reside on property adjacent to the proposed boundary lines. The agency administrator shall at once publish this order in the same newspaper in which the original notice was published. Within twenty days after the publication thereof the decision rendered by the area education agency board may be appealed to the district court in the county involved by any school district affected. For purposes of appeal, only those school districts who filed reorganization petitions are school districts affected.

Sec. 11. Section two hundred seventy-five point sixteen (275.16), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

If the territory described in the petition for the proposed corporation lies in more than one area education agency, the agency administrator with whom the petition is filed shall fix the time and place for a hearing and call a joint meeting of the members of all the agency boards in which any territory of the proposed school corporation lies, to act as a single board for the hearing of the said objections, and a majority of all members of the agency boards of the different agencies in which any part of the proposed corporation lies, shall constitute a quorum. The joint boards acting as a single board shall determine whether the petition conforms to plans or, if the petition requests a change in plans, whether such change should be made, and shall have the authority to change the plans of any or all the area education agency boards affected by the petition, and it shall determine and fix boundaries for the proposed corporation as provided in section 275.15 or dismiss the petition. Votes of each member of an area education agency board shall be weighted so that the total number of votes eligible to be cast by members of each board shall be equal. However, if such joint boards cast a tie vote and are unable to agree to an order fixing the boundaries for the proposed school district or to an order to dismiss the petition, the time during which such actions must be taken under the provisions of section 275.15 shall be extended from five days to fifteen days after the conclusion of the hearing under the provisions of section 275.15, and such joint board shall reconvene not less than ten and not

more than fifteen days after the conclusion of such hearing. At such hearing the joint board shall reconsider their action and if a tie vote shall again be cast it shall be deemed an order granting the petition and changing the plans of any and all of the agency boards affected by the petition and fixing the boundaries for the proposed school corporation. The agency administrator shall at once publish the decision in the same newspaper in which the original notice was published.

Sec. 12. Chapter two hundred seventy-five (275), Code 1977, is amended by inserting the following new section after section two hundred seventy-five point sixteen (275.16) of the Code:

NEW SECTION. REFILEING A PETITION. If an area education agency board does not approve the change in boundaries of school districts in accordance with a petition, an identical petition shall not be refiled for a period of six months following the date of the hearing or the vote of the board, whichever is later.

Sec. 13. Section two hundred seventy-five point eighteen (275.18), Code 1977, is amended to read as follows:

275.18 SPECIAL ELECTION CALLED--TIME. When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of such proposed school corporation have been determined as herein provided, the area education agency administrator with whom such petition is filed shall ~~call a special election in such proposed school corporation within thirty days from the date of the final determination of such boundaries and serve~~ give written notice on of the proposed date of the election to the county commissioner of elections of the county in the proposed school corporation which has the greatest taxable base in the proposed school corporation therein. The proposed date shall be as soon as possible pursuant to sections thirty-nine point two (39.2), subsections one (1) and two (2), and forty-seven point six (47.6), subsections one (1) and two (2), of the Code, but not later than December thirty-first. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which previous notices have been published regarding the proposed school reorganization, and in addition thereto, if more than one county is involved, by one publication in a legal newspaper in each county other

than that of the first publication, which publication shall be not less than four nor more than twenty days prior to the election. In the case of districts located in more than one county, no notice for an election shall be published until the time for appeal, which shall be the same as that provided in section 285.12, has expired; and in the event of an appeal, not until the same has been disposed of.

Sec. 14. Section two hundred seventy-five point twenty (275.20), Code 1977, is amended to read as follows:

275.20 SEPARATE VOTE IN EXISTING DISTRICTS. The voters shall vote separately in each existing school district affected ~~or portion thereof and voters residing in the entire existing district are eligible to vote~~ upon the proposition to create such new school corporation. ~~School districts affected or portion thereof shall be defined to mean that area included within the boundaries of the proposed new school corporation, except that where a portion of an existing school district operating a high school, or rural independent school district of eight sections or more operating a school formed prior to May 10, 1957, is included within the boundaries of the proposed new school corporation, that affected school district shall be defined as that existing district within and without the proposed new school corporation, and in such districts the entire district shall vote.~~ If the proposition receives a majority of the votes cast in each of at least seventy-five percent of the said districts, and also a majority of the total number of votes cast in all of said districts, the proposition shall be deemed carried. ~~Provided, however, that if two or more of the school districts affected have a resident average daily attendance in public schools of three hundred or more pupils who were enrolled in public schools in the preceding school year, the proposition must also receive a majority of the votes cast in each of said districts in order to be deemed carried, and in such districts the entire existing district shall vote.~~

Sec. 15. Section two hundred seventy-five point twenty-five (275.25), Code 1977, is amended to read as follows:

275.25 ELECTION OF DIRECTORS. If the proposition to establish a new corporation carries under the method hereinabove provided ~~a special election shall be called by the area education agency administrator. The administrator shall notify the county commissioner of elections who shall publish notice by one publication in the same newspaper in~~

~~which-the-former-notices-were-published---~~At such, the board of the reorganized district shall consist of the members of the boards of the districts involved in the reorganization who are residents of the reorganized district until their successors are elected at the second regular school election held thereafter. Terms of office of such members shall be extended beyond their expiration to the organizational meeting after the second regular school election held thereafter. Vacancies occurring on the board during the period shall be filled by appointment by the remaining members.

At the next succeeding regular school election, two directors shall be elected to serve until the next regular election, two until the second, and one until the third regular election thereafter, except in districts which include all or part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for seven directors, three directors shall be elected to serve until the third regular election thereafter, all of whom to serve until such time as their successors are elected and qualified. Provided, however, that in all community school districts which include a city of fifteen thousand or more population and which became effective prior to July 4, 1955, and in all community school districts containing a city which has attained a population of fifteen thousand or more as shown by the most recent decennial federal census, the board of directors shall consist of seven members. Where it becomes necessary to increase the membership of any such board under the provisions hereof, two directors shall be added according to the procedure described in section 277.23. The county board of supervisors shall canvass the votes and the county commissioner of elections report the results to the area education agency administrator who shall notify the persons who are elected directors. ~~The-new-board-shall-organize-within-fifteen-days-following-their-election-upon-call-of-the-administrator. The-new-board-of-directors-shall-have-complete-control-of-the-employment-of-all-personnel-for-the-newly-formed-community-school-district-for-the-ensuing-school-year---~~Following the organization of the new board they shall have authority to establish policy, organize curriculum, enter into contracts and complete such other planning and take such action as is essential for the efficient management of the newly formed community school district.

Provided, however, in cases involving two districts only,

~~where the population of the new district does not exceed the population of the more populous of said districts by more than twenty-five percent, the incumbent board members of said more populous district shall continue to hold office as the directors of the new district for the remainder of their elective terms.~~ Section 49.8, subsection 4 shall not be construed to permit a director to remain on the board of any school district after the effective date of a boundary change which places the director's residence outside the boundaries of the district. Vacancies so caused on any board shall be filled in the manner provided in ~~sections~~ section 279.6 and 279.7.

Sec. 16. Section two hundred seventy-five point thirty-three (275.33), Code 1977, is amended to read as follows:

275.33 CONTRACTS NOT AFFECTED.

1. The terms of employment of superintendents, principals, and teachers, for ~~any current~~ the school year following the effective date of the formation of the new district shall not be affected by the formation of the new district, except in accordance with the provisions of sections two hundred seventy-nine point fifteen (279.15) through two hundred seventy-nine point eighteen (279.18) and two hundred seventy-nine point twenty-four (279.24) of the Code.

2. The collective bargaining agreement of the district with the largest basic enrollment, as defined in section four hundred forty-two point four (442.4) of the Code, in the new district shall continue in full force and effect until a successor agreement is negotiated and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall continue in full force and effect until a successor agreement is negotiated, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement without further action by the public employment relations board.

Sec. 17. Chapter two hundred seventy-five (275), Code 1977, is amended by adding the following new section:

NEW SECTION. ALTERNATIVE METHOD FOR ELECTION OF DIRECTORS.

1. As an alternative to the method specified in section

two hundred seventy-five point twenty-five (275.25) of the Code for electing directors in a newly-formed community school district, the procedure specified in this section may be used.

2. The boards of the old school district with the largest population involved in the merger shall designate four directors to be retained as members of the board of the newly-formed district. Other school districts involved in the merger shall each be allowed to retain directors in proportion to the ratio that the population of the former school district bears to the most populous district involved in the merger, except that no district involved in the merger shall retain less than one director.

3. If the procedure in subsection two (2) of this section results in four members being retained from the largest district involved in the merger and only a single member from the other district involved in the merger, the reorganization petition may specify that the distribution of the board members who are retained from the districts involved in the merger be five to one, five to two, or six to one.

4. If the total number of directors determined under subsection two (2) or three (3) of this section is an odd number, the board of the district with the largest population shall designate the term of office of one of the members who is retained to commence at the organizational meeting of the board of the newly-formed district and to end at the organizational meeting following the fourth regular school election held thereafter in the manner specified in the reorganization petition.

If the total number of directors determined under subsection two (2) or three (3) of this section is an even number, that number of directors shall function until a special election can be held, at which time an additional director shall be elected to a term from the newly-formed district ending at the organizational meeting following the fourth regular school election held thereafter. The procedure for calling the special election shall be the procedure specified in section two hundred seventy-five point twenty-five (275.25) of the Code.

5. The boards of directors of other school districts which are involved in the merger which have three or more directors who are retained, shall each designate two of the directors who are retained to serve terms that expire at the organizational meeting following the second regular school election held thereafter. All other directors who are retained

shall serve terms that expire at the organizational meeting following the third regular school election held thereafter.

6. At the second regular school election held after the effective date of the merger, the two vacancies which will occur on the board shall be filled in a manner specified in the reorganization petition.

7. At the third regular school election held after the effective date of merger, if a five-member board is specified in the reorganization petition, two directors shall be elected in the manner specified in the reorganization petition and if a seven-member board is specified in the reorganization petition, four directors shall be elected, two for one-year terms and two for three-year terms, in the manner specified in the reorganization petition.

8. The board of the newly-formed district shall organize within forty-five days after the approval of the merger upon the call of the area education agency administrator. The new board shall have control of the employment of all personnel for the newly-formed district for the ensuing school year. Following the organization of the new board the board shall have authority to establish policy, organize curriculum, enter into contracts and complete such planning and take such action as is essential for the efficient management of the newly-formed community school district.

Section forty-nine point eight (49.8), subsection four (4), of the Code shall not permit a director to remain on the board of a school district after the effective date of a boundary change which places the director's residence outside the boundaries of the district. Vacancies so caused on any board shall be filled in the manner provided in sections two hundred seventy-nine point six (279.6) and two hundred seventy-nine point seven (279.7) of the Code.

Sec. 18. Section two hundred eighty point fifteen (280.15), Code 1977, is amended to read as follows:

280.15 JOINT EMPLOYMENT AND SHARING. Any two or more public school districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment and facilities. Classes made available to students in the manner provided in this section shall be considered as complying with the requirements of section two hundred seventy-five point one (275.1) of the Code relating to the maintenance of twelve grades by a school district.

Sec. 19. Chapter two hundred ninety-seven (297), Code

1977, is amended by adding the following new section:

NEW SECTION. Before an election is held on the issuance of general obligation bonds for the construction or renovation of any school building, the board shall inform the board of the area education agency in which the school district is located. The chairperson of the area education agency shall call a meeting of the boards of directors of the school district proposing the issuance of general obligation bonds, the boards of school districts contiguous to that school district, and the board of the area education agency, for the purpose of discussing enrollment trends of that school district and school districts contiguous to it and solutions to the enrollment changes in the various school districts, including the possibility of school district reorganization. The chairperson of the board of the area education agency shall preside at the meeting unless the chairperson is a resident of the school district proposing the issuance of general obligation bonds. In that case, the vice chairperson shall preside at the meeting.

Following discussion at the meeting, the board of directors of the area education agency shall meet to make recommendations concerning alternative solutions to the construction or renovation of the school building which shall be made to the school district proposing to issue general obligation bonds.

The school district shall consider the recommendations of the board of the area education agency before setting a date for the election to authorize the issuance of general obligation bonds.

Approved June 14, 1978

CHAPTER 1097

CONTINUING PROFESSIONAL EDUCATION

H. F. 2433

AN ACT making technical corrections and relating to chapter ninety-five (95) of the Acts of the Sixty-seventh General Assembly, 1977 session.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section two (2), subsection two (2), paragraph b, is amended to read as follows:

b. Place the responsibility for arrangement of financing of continuing education on the licensee, while allowing the board ~~of continuing education provider~~ to receive any other available funds or resources that aid in supporting a continuing education program.

Sec. 2. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection two (2), paragraph a, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon the grounds specified in sections one hundred fourteen point twenty-one (114.21), one hundred fifteen point eight (115.8), one hundred sixteen point twenty-one (116.21), one hundred seventeen point twenty-nine (117.29), one hundred eighteen point thirteen (118.13), one hundred eighteen A point fifteen (118A.15), one hundred twenty point ten (120.10), chapter one hundred thirty-five E (135E), section one hundred forty-seven point fifty-five (147.55), chapter one hundred fifty-one (151), sections one hundred fifty-three point thirty-four (153.34), one hundred fifty-four A point twenty-four (154A.24), one hundred sixty-nine point thirty-six (169.36) and four hundred fifty-five B point fifty-nine (455B.59) of the Code, or upon any other grounds specifically provided for in this Act for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 3. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection two (2), is amended by striking paragraph e and inserting in lieu thereof the following:

e. Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties. The amount of civil penalty shall be in the discretion of the board, but shall not exceed one thousand dollars. Failure to comply with the imposition of a civil penalty may be grounds for further license discipline.

Sec. 4. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection four (4), unnumbered paragraph two (2), is amended to read as follows:

All health-care boards shall file written decisions which specify the sanction entered by the board with the department of health which ~~file~~ shall be available to the public upon request. All nonhealth-care boards shall have on file the written and specified decisions and sanctions entered by the board and shall be available to the public upon request.

Sec. 5. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section three (3), subsection four (4), unnumbered paragraph three (3), is amended to read as follows:

~~Licensee-discipline-pursuant-to-informal-stipulation-or
agreed-settlement-under-this-section-and-pursuant-to-this
Act-shall-not-be-subject-to-review-by-the-court.~~

Sec. 6. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section four (4), subsection one (1), paragraphs c, d, and e, are amended to read as follows:

c. Establish procedures by which any recommendation taken by a peer review committee shall be reported to and reviewed by the board if a peer review committee is established;

d. Establish procedures for registration with the board of peer review committees if a peer review committee is established;

e. Define by rule those recommendations of peer review committees which shall constitute disciplinary recommendations which must be reported to the board if a peer review committee is established;

Sec. 7. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section four (4), subsection one (1), paragraph f, is amended to read as follows:

f. Define by rule acts or omissions which are grounds for revocation or suspension of a license under the provisions of sections one hundred fourteen point twenty-one (114.21), one hundred fifteen point eight (115.8), one hundred

sixteen point twenty-one (116.21), one hundred seventeen point twenty-nine (117.29), one hundred eighteen point thirteen (118.13), one hundred eighteen A point fifteen (118A.15), one hundred twenty point ten (120.10), chapter one hundred thirty-five E (135E), section one hundred forty-seven point fifty-five (147.55), chapter one hundred fifty-one (151), sections one hundred fifty-three point thirty-four (153.34), one hundred fifty-four A point twenty-four (154A.24), one hundred sixty-nine point thirty-six (169.36) and four hundred fifty-five B point forty-nine (455B.49), of the Code, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of paragraph b of subsection two (2) of section three (3) of this Act, which licensees are required to report to the board pursuant to subsection two (2) of section nine (9) of this Act;

Sec. 8. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section five (5), subsection two (2), paragraph c, is amended to read as follows:

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections one hundred fourteen point twenty-two (114.22), one hundred sixteen point twenty-three (116.23), one hundred seventeen point thirty-five (117.35), one hundred seventeen point thirty-six (117.36), one hundred eighteen A point sixteen (118A.16), one hundred forty-seven point fifty-eight (147.58) through one hundred forty-seven point seventy-one (147.71), one hundred forty-eight point six (148.6) through one hundred forty-eight point nine (148.9), one hundred fifty-three point twenty-three (153.23) through one hundred fifty-three point thirty (153.30), one hundred fifty-three point thirty-three (153.33), one hundred fifty-four A point twenty-three (154A.23), and one hundred fifty-five point fourteen (155.14) through one hundred fifty-five point sixteen (155.16) of the Code.

Sec. 9. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), section six (6), subsection four (4), unnumbered paragraph one (1), is amended to read as follows:

In order to assure a free flow of information for accomplishing the purposes of this section, and notwithstanding section six hundred twenty-two point ten (622.10) of the Code, all complaint files, and investigation files, and all other investigation reports and other investigative information in the possession of a licensing board or peer review committee

acting under the authority of a licensing board or its employees or agents which relates to licensee discipline shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person other than the licensee and the boards, their employees and agents involved in licensee discipline, or be admissible in evidence in any judicial or administrative proceeding other than the proceeding involving licensee discipline. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in subsection four (4) of section three (3) of this Act shall be a public record.

Sec. 10. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), is amended by striking section twenty-one (21) and inserting in lieu thereof the following:

SEC. 21. Section one hundred sixty-nine point thirty-six (169.36), Code 1977, is amended by striking unnumbered paragraph one (1) and inserting in lieu thereof the following:

A license or temporary permit issued under this chapter may be revoked or suspended or the licensee or permittee may be otherwise disciplined by the board upon a two-thirds vote of the entire board, with the secretary of agriculture sitting as a voting board member for this purpose only. Such an action may be taken when the licensee is found guilty of any of the following acts or offenses:

Sec. 11. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-five (95), is amended by striking section twenty-two (22) and inserting in lieu thereof the following:

SEC. 22. Section four hundred fifty-five B point fifty-nine (455B.59), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

455B.59 REVOCATION OR SUSPENSION. The board may suspend or revoke the certificate of an operator, following a hearing before the board, when the operator is found guilty of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his or her profession or engaging in unethical conduct or practice harmful

or detrimental to the public. Proof of actual injury need not be established.

4. Habitual intoxication or addiction to the use of drugs.

5. Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect his or her ability to operate a water treatment or wastewater treatment plant. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

6. Fraud in representation as to skill or ability.

7. Use of untruthful or improbable statements in advertisements.

8. Willful or repeated violations of this Act.

Sec. 12. Section one hundred forty-seven point fifty-five (147.55), Code 1977, is amended to read as follows:

147.55 GROUNDS. A license to practice a profession shall be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring his a license.

2. ~~Incompetency-in-the-practice-of-his-profession~~
Professional incompetency.

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

4. Habitual intoxication or addiction to the use of drugs.

5. Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect his or her ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

6. Fraud in representations as to skill or ability.

7. Use of untruthful or improbable statements in advertisements. ~~This shall not be construed as permitting dentists or dental hygienists to advertise their services or products, contrary to the other provisions of this title relative thereto.~~

~~8. Distribution of intoxicating liquors or drugs for any other than lawful purposes.~~

9 8. Willful or repeated violations of ~~this title, the title on "Public Health", or the rules of the state department of health~~ the provisions of this Act.

~~10. Continued practice while knowingly having an infectious or contagious disease.~~

Sec. 13. Section one hundred fifty-three point thirty-three (153.33), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. To promulgate rules as may be necessary to implement the provisions of this chapter.

Sec. 14. Section one hundred fifty-three point thirty-two (153.32), subsections one (1) through four (4), and section one hundred fifty-three point thirty-four (153.34), subsections five (5), six (6), eight (8), and ten (10), Code 1977, are amended by striking those subsections.

Sec. 15. Section one hundred fifty-three point nineteen (153.19), Code 1977, is repealed.

Sec. 16. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in *The Council Bluffs Nonpareil*, a newspaper published in Council Bluffs, Iowa, and in the *Ames Daily Tribune*, a newspaper published in Ames, Iowa.

Approved June 12, 1978

I hereby certify that the foregoing Act, House File 2433, was published in *The Council Bluffs Nonpareil*, Council Bluffs, Iowa on June 16, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1098

BOARD OF REGENTS COLLECTIVE BARGAINING

H.F. 2432

AN ACT relating to the employment and payment by the state board of regents of attorneys and counselors for the purpose of acting as an employer under the provisions of chapter twenty (20) of the Code.

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

Section 1. Section two hundred sixty-two point nine (262.9), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. In its discretion employ or retain attorneys or counselors when acting as a public employer for the purpose of carrying out collective bargaining and related responsibilities provided for under chapter twenty (20) of the Code. This subsection shall supersede the provisions of section thirteen point seven (13.7) of the Code.

Sec. 2. The state board of regents may make payment to an attorney or counselor for services rendered prior to the effective date of this Act to the state board of regents in connection with its responsibilities as a public employer pursuant to chapter twenty (20) of the Code.

Approved June 5, 1978

CHAPTER 1099
IOWA COMMUNITY EDUCATION

H. F. 2361

AN ACT relating to education providing for a tax and an appropriation.

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

Section 1. NEW SECTION. TITLE. Sections one (1) through eleven (11) of this Act shall be known and may be cited as the "Iowa community education Act".

Sec. 2. NEW SECTION. PURPOSE. It is the purpose of this Act to provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity. In cooperation with other community agencies and groups, it is the purpose of the community education Act to mobilize community resources to solve identified community concerns and to promote a more efficient and expanded use of existing school buildings and equipment, to provide leadership in working with other entities, to mobilize the human and financial resources of a community, and to provide a wide range of opportunities for all socioeconomic, ethnic, and age groups. A related purpose of this Act is to develop a sense of community in which the citizenry cooperates with the school and community agencies and groups to resolve their school and community concerns and to recognize that the schools belong to the people, and that as the entity located in every neighborhood, the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the elementary and secondary program.

Sec. 3. NEW SECTION. DEFINITIONS. As used in sections one (1) through eleven (11) of this Act unless the context otherwise requires:

1. "Community education" means a life-long education process concerning itself with every facet that affects the well-being of all citizens within a given community. It extends the role of the school from one of teaching children through an elementary and secondary program to one of providing for citizen participation in identifying the wants, needs, and concerns of the neighborhood community and coordinating all educational, recreational, and cultural opportunities within the community with community education being the catalyst for providing for citizen participation in the development and implementation of programs toward the goal of improving the entire community.

Community education energizes people to strive for the achievement of determined goals and stimulates capable persons to assume leadership responsibilities. It welcomes and works with all groups, it draws no lines. It is the one institution in the entire community that has the opportunity to reach all people and groups and to gain their cooperation.

2. "Community school" means any elementary or secondary school.

3. "Community" means the area located within the boundaries of the local school district.

4. "State consultant" means the state community education consultant.

5. "Department" means the department of public instruction.

6. "State advisory council" means the council established by section six (6) of this Act.

7. "Director" means the local community school director who assumes responsibility for making the process function effectively.

8. "District-wide advisory council" means a broadly-representative group of persons selected from the entire school district with at least one representative from each of the local advisory councils after they are formed. At least one member of the council shall be a representative from the local public recreation department or agency, if one exists.

9. "Local advisory council" means a broadly-representative group of persons living within the attendance boundaries of an individual neighborhood school.

10. "Board" means the local board of directors of school districts.

Sec. 4. NEW SECTION. STATE CONSULTANT. State consultant of community education shall serve district and local advisory

councils in accordance with rules promulgated by the superintendent of public instruction and in compliance with public law ninety-three dash three hundred eighty (P.L. 93-380).

Sec. 5. NEW SECTION. LOCAL DIRECTOR. The local community education director shall:

1. Serve as staff person to district-wide and local advisory councils.
2. Promote, publicize, and interpret the community education programs to the schools and community.
3. Facilitate community needs and resources after adequate assessment.
4. Seek ideas, promote people involvement in the process, and open lines of communication and coordination.
5. Stimulate planning to meet needs.
6. Schedule community-use hours available in school-plant facilities and related equipment and coordinate such use with building principals or designated representatives.
7. Prepare the community education budget in concert and with approval of the district-wide advisory council, and administer the budget after final approval by the board of directors.

Sec. 6. NEW SECTION. STATE ADVISORY COUNCIL.

1. The state advisory council is established consisting of nine members appointed by the state board of public instruction for three-year terms. The purpose of the community school advisory council is to promote educational, recreational, cultural and other community services through the maximum use of school facilities. The state council shall consist of members who are broadly representative of the educational, recreational, cultural, and social entities of the state. Members shall be appointed from various geographic locations throughout the state and shall represent various socioeconomic, ethnic, and age groups. Terms of office shall commence on July first of the year in which the appointment is made and shall continue until a successor is appointed and qualifies. However, for the initial council, three members shall be appointed for three-year terms, three members for two-year terms, and three members for one-year terms. Vacancies occurring on the state council shall be filled for the unexpired term in the same manner as the original appointment.

2. The members of the state council shall serve without compensation, but shall be reimbursed for actual expenses

and travel incurred while the member is on official business of the state council.

3. The members of the council shall meet annually as soon after July first as possible to organize at a time and place designated by the state consultant. Thereafter, meetings may be called by the chairperson or a majority of members. The state council shall elect a chairperson and such other officers as it deems necessary. The state consultant shall serve as secretary for the state council.

Sec. 7. NEW SECTION. DUTIES OF STATE COUNCIL. The state council shall:

1. Establish and maintain close cooperation and understanding among the various groups throughout the state affected by community education programs.
2. Provide a forum for the discussion, development, and recommendation of public policy alternatives for community education programs.
3. Serve as a clearinghouse for information on matters relating to community education programs and similar programs throughout the United States.
4. Serve as a clearinghouse for resource persons, associations, and groups of all kinds, coordinating assistance to school districts which have specific needs.
5. Provide an annual report to the state board of public instruction.
6. Perform other functions necessary to insure the orderly and coordinated development of community school programs in the state.

Sec. 8. NEW SECTION. DUTIES OF DISTRICT-WIDE ADVISORY COUNCIL. The district-wide advisory council shall:

1. Provide guidance to local advisory councils, training and orientation for community persons, evaluation and assessment of needs and delivery systems for school districts.
2. Develop a "sense of total community" and promote democratic thinking and action.
3. Promote meaningful involvement of total community in the identifying, prioritizing, and resolving of school-community concerns.
4. Serve as an advocate of community education and foster community cooperation.
5. Provide an annual budget recommendation and annual report to the local board of education.
6. Mobilize available human and financial resources of the community to meet needs, interests, and concerns of people in the total community.

7. Make school facilities and resources available to all age groups from the total community, day and night, year round.

8. Facilitate the assessment of community-wide needs with the understanding that local advisory councils will manage their own assessments of needs.

9. Provide support and act as a resource group for local advisory councils and the community education director.

10. Help plan and recommend a community education budget for approval by the local board of education.

11. Recommend to the board, regulations, guidelines, and fees, if any, for facility usage.

12. Define short and long-range community education goals and objectives.

13. Communicate through inquiring, informing, suggesting, recommending and evaluating community education for the community.

14. Cooperate with other agencies and organizations including the merged area schools and institutions under the control of the state board of regents toward common goals.

15. Perform the functions of the local advisory council in the event that the board determines that the size of the district does not warrant the establishment of a local advisory council.

Sec. 9. NEW SECTION. DUTIES OF LOCAL ADVISORY COUNCIL.
The local advisory council shall:

1. Determine needs and priorities and provide programs to serve the needs of the community located within the attendance boundaries of an individual school.

2. Provide programming which is available to any community resident.

3. Promote meaningful involvement of the total neighborhood community in its identification and resolution of school and community concerns.

4. Mobilize available human and financial resources of the community to meet the wants and needs in that neighborhood community.

5. Use existing programs and community resources for delivery of services whenever feasible.

6. Use funds as allocated by district-wide advisory council after budget approval by board.

7. Evaluate the success of programs in meeting needs, interests, and concerns and in resolving responsible needs and concerns.

Sec. 10. NEW SECTION. ESTABLISHMENT OF PROGRAM.

1. The board of directors of a local school district may establish a community education program for schools in the district and provide for the general supervision of the program. Financial support for the program shall be provided from funds raised pursuant to chapter three hundred (300) of the Code and from any private funds and any federal funds made available for the purpose of implementing this Act. The program which recognizes that the schools belong to the people and which shall be centered in the schools may include but shall not be limited to the use of the school facilities day and night, year round including weekends and regular school vacation periods for educational, recreational, cultural, and other community services and programs for all age, ethnic, and socioeconomic groups residing in the community.

2. If a community education program is established, the board shall appoint a community education director who shall have professional training in the field of community education, recreation, or comparable experience.

3. Upon establishment of a community education program, the board shall provide for the selection of a district-wide advisory council which shall be responsible to the board and shall cooperate with and assist the board and the local community education director. The board shall also provide for the selection of local advisory councils.

4. The board shall receive an annual report and budget recommendation from the district-wide advisory council and may request supplementary reports as needed.

5. The school districts may cooperate with merged area schools, institutions under the control of the state board of regents, and area education agencies in providing community education programs.

6. The board may use opportunities available under public law ninety-three dash three hundred eighty (P.L. 93-380).

7. The board may approve cooperation and pooling of funds with other school districts.

Sec. 11. NEW SECTION. FUNDING OF COMMUNITY EDUCATION CONCEPT. Residents of the affected school district shall determine if community education will function in their community by providing for funding pursuant to chapter three hundred (300) of the Code.

Sec. 12. Section two hundred eighty-five point one (285.1), subsection twenty-one (21), Code 1977, is amended to read as follows:

21. Boards in districts operating buses may in their discretion transport senior citizens, children, and handicapped and other persons and groups, who are not otherwise entitled to free transportation, and shall collect the pro rata cost of transportation. Transportation under this subsection shall not be provided when the school bus is being used to transport pupils to or from school unless the board determines that such transportation is desirable and will not interfere with or delay the transportation of pupils.

Sec. 13. Section two hundred eighty-five point ten (285.10), subsection nine (9), Code 1977, is amended to read as follows:

9. In the discretion of the board, furnish a school bus and services of a qualified driver to an organization of, or sponsoring activities for, senior citizens, children, or handicapped or other persons and groups in this state. The board shall charge and collect an amount sufficient to reimburse all costs of furnishing the bus and driver except when the bus is used for transporting pupils to and from extracurricular activities sponsored by the school. A school bus shall be used as provided in this subsection only at times when it is not needed for transportation of pupils.

Sec. 14. Section two hundred ninety-seven point five (297.5), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The directors in any high school district maintaining a program kindergarten through grade twelve may, by February 4 March fifteenth of each year certify an amount not exceeding twenty-seven cents per thousand dollars of assessed value to the board of supervisors, who shall levy the amount so certified, and the tax so levied shall be placed in the schoolhouse fund and used only for the purchase and improvement of sites in and for said school district as specified by the directors.

Sec. 15. Section two hundred ninety-seven point nine (297.9), Code 1977, is amended to read as follows:

297.9 USE FOR OTHER THAN SCHOOL PURPOSES. The board of directors of any school district may authorize the use of any schoolhouse and its grounds within such district for the purpose of meetings of granges, lodges, agricultural societies, and similar ~~rural-secret-orders-and~~ societies, for parent-teacher associations, for community recreational activities, for community education programs, election purposes, other meetings of public interest, public forums and similar

community purposes; ~~provided, however, that the board may not grant such permission to any organization known or believed to hold views that are in conflict with the republican form of government as set forth in the Constitution of the United States, and for election purposes, and for other meetings of public interest,~~ provided that such use shall in no way interfere with school activities; such use to be for such compensation and upon such terms and conditions as may be fixed by said board for the proper protection of the schoolhouse and the property belonging therein, including that of pupils, except that in the case of community education programs, any compensation necessary for programs provided specifically by community education and not those provided through community education by other agencies or organizations shall be compensated from the funding provided for community education programs.

Sec. 16. Section three hundred point one (300.1), Code 1977, is amended to read as follows:

300.1 ESTABLISHMENT--MAINTENANCE--SUPERVISION. Boards of ~~school~~ directors in school districts containing or contained in any city are hereby authorized to establish and maintain for children and adults in the public school buildings and on the public school grounds under the custody and management of such boards, public recreation places and playgrounds and necessary accommodations for same, without charge to the residents of said school district; also to co-operate with the commissioners or boards having the custody and management in such cities of public parks and public buildings and grounds of whatever sort, and, by making arrangements satisfactory to such boards controlling public parks and grounds, to provide for the supervision, instruction, and oversight necessary to carry on public educational and recreational activities, as described in this section in buildings and upon grounds in the custody and under the management of such commissioners or boards having charge of public parks and public buildings on grounds of whatever sort, in such cities.

Sec. 17. Section four hundred forty-two point four (442.4), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. Basic enrollment for the budget year beginning July 1, 1979 and each subsequent budget year is determined by adding the resident pupils who were enrolled on the second Friday of ~~January~~ September in the base year in public elementary and secondary schools of the district and in public

elementary and secondary schools in another district or state for which tuition is paid by the district. ~~For the school year beginning July 1, 1975, pupils who were enrolled on the second Friday of January in the base year in special education programs conducted by a county or joint county school system are included in basic enrollment.~~ For the school year beginning July 1, 1975, and each succeeding school year, pupils enrolled in prekindergarten programs other than special education programs are not included in basic enrollment.

Resident pupils of high school age for which the district pays tuition to attend an Iowa area school are included in basic enrollment on a full-time equivalent basis as of the second Friday of January September in the base year for the budget year beginning July 1, 1979 and each subsequent budget year.

Shared-time and part-time pupils of school age, irrespective of the districts in which the pupils reside, are included in basic enrollment as of the second Friday of January September in the base year for the budget year beginning July 1, 1979 and each subsequent budget year, in the proportion that the time for which they are enrolled or receive instruction for the school year is to the time that full-time pupils carrying a normal course schedule, at the same grade level, in the same school district, for the same school year, are enrolled and receive instruction. Tuition charges to the parent or guardian of a shared-time or part-time out-of-district pupil shall be reduced by the amount of any increased state aid occasioned by the counting of the pupil.

Pupils attending a university laboratory school are not counted in any district's basic enrollment, but the laboratory school shall report them directly to the department of public instruction.

A school district shall certify its basic enrollment to the state department of public instruction by January-25 September twenty-fifth of each year, and the department shall promptly forward the information to the state comptroller. For purposes of determining whether a district is entitled to an advance for increasing enrollment, and for record-keeping purposes, a determination of enrollment shall be made on the second Friday of September in the budget year and the second Friday of January in the base year, in the same manner as the January September basic enrollment is determined.

~~However, for the school year beginning July 1, 1974, basic enrollment is equal to the actual enrollment used for that~~

~~year-prior-to-adjustment-for-decreasing-enrollment.~~

2. An adjusted enrollment for each district shall be computed as follows:

~~a. For the school year beginning July 1, 1975, if a district has a decrease from the sum of the basic enrollment in the base year plus adjustments for decreasing enrollment made in the base year, to the basic enrollment in the budget year, the state comptroller shall compute an amount to be added to the basic enrollment for the budget year. The amount to be added is equal to fifty percent of this decrease, to the extent that the decrease does not exceed five percent of the sum of the basic enrollment in the base year plus adjustments made for decreasing enrollment in the base year, and twenty-five percent of the remaining decrease. If the district does not experience this decrease, the adjusted enrollment for the budget year is equal to the basic enrollment for the budget year.~~

b a. For the school years subsequent to the school year beginning July 1, 1975, and prior to the school year beginning July 1, 1979, and for the school years subsequent to the school year beginning July 1, 1979, if a district has a decrease from the basic enrollment in the base year to the basic enrollment in the budget year the state comptroller shall compute an amount to be added to the basic enrollment for the budget year. The amount to be added is equal to fifty percent of the basic enrollment decrease to the extent that it does not exceed five percent of the base year's basic enrollment, and twenty-five percent of the remaining basic enrollment decrease. If the school district does not experience a decrease from the basic enrollment in the base year to the basic enrollment in the budget year the adjusted enrollment for the budget year is equal to the basic enrollment for the budget year.

b. For the school year beginning July 1, 1979, if a district has a decrease from the basic enrollment in the base year to the basic enrollment in the budget year the state comptroller shall compute an amount to be added to the basic enrollment for the budget year. The amount to be added is equal to one hundred percent of the basic enrollment decrease to the extent that it does not exceed two and one-half percent of the base year's basic enrollment, and fifty percent of the remaining basic enrollment decrease. If the school district's basic enrollment in the base year is equal to or less than the basic enrollment for budget year the adjusted

enrollment shall equal the basic enrollment for the budget year.

Sec. 18. Section four hundred forty-two point five (442.5), subsection one (1), paragraph a, Code 1977, is amended to read as follows:

a. "Miscellaneous income" means all receipts deposited to the general fund of a school district which are not obtained from state aid provided under section 442.1 or 442.11, or from property tax authorized under section 442.2 or 442.9. Miscellaneous income includes property tax levied under the provisions of section six hundred thirteen A point seven (613A.7) of the Code, to fund the costs of tort liability insurance for the school district.

Sec. 19. Section four hundred forty-two point seven (442.7), subsections one (1), two (2), three (3), four (4), and five (5), Code 1977, are amended to read as follows:

~~1. -- For the school year beginning July 1, 1975, the state percent of growth is ten and seven-tenths percent.~~

~~Seven-tenths of one percent of the state percent of growth is to compensate for the cost of improvements to the Iowa public employees' retirement system and also to fund a portion of the cost of driver education classes offered by the district and formerly funded partly by a state appropriation.~~

2 1. For school years subsequent to the school year beginning July 1, ~~1975~~ 1978, a state percent of growth for the budget year shall be computed by the state comptroller prior to ~~February 15 of each~~ September fifteenth in the base year and forwarded to the superintendent of public instruction. The state percent of growth shall be an average of the following four percentages of growth:

a. The difference in the state general fund revenues received during the year, adjusted for changes in rates or basis, computed or estimated as a percentage of change for each of the following periods:

(1) From the year immediately preceding the base year to the base year.

(2) From the base year to the budget year.

b. The difference in the Iowa consumer price index which shall be computed by the state comptroller prior to January 1, 1976, and recomputed each month subsequent to January 1, 1976, based upon a comprehensive sampling of the costs of goods and services within Iowa, and until an Iowa consumer price index is available, the consumer price index published by the bureau of labor statistics, United States department

of labor computed or estimated as a percentage of change for the following periods:

(1) From ~~July-4~~ January first of the year prior to the base year to July-4 January first of the budget base year.

(2) From ~~July-4~~ January first of the budget base year to July-4 January first of the year-immediately-following the budget year.

3 2. If the state percent of growth so computed is negative, that percentage shall not be used and the state percent of growth shall be zero.

4 3. Each year prior to ~~February-15~~ September fifteenth the state comptroller shall recompute the state percent of growth for the previous year using adjusted estimates and the actual figures available. The difference between the recomputed state percent of growth for the base year and the original computation shall be added to or subtracted from the state percent of growth for the budget year, as applicable.

~~5. The state comptroller shall compute an estimated state percent of growth for the budget year prior to September-15 in the base year and shall forward this estimate to the superintendent of public instruction.~~

Sec. 20. Section four hundred forty-two point seven (442.7), subsection seven (7), paragraph a, Code 1977, is amended to read as follows:

a. If the state cost per pupil in the base year minus the amount included in the state cost per pupil in the base year to compensate for the cost of special education support services exceeds the district cost per pupil in the base year minus the amount included in the district cost per pupil in the base year to compensate for the cost of special education support services, the basic allowable growth per pupil for the budget year is modified to equal the lesser of one hundred twenty-five percent of the basic allowable growth product obtained by multiplying the state percent of growth for the budget year times an amount equal to the state cost per pupil for the base year less the average amount for special education support service costs per pupil for the budget base year or an amount sufficient to equalize the district cost per pupil in the budget year, excluding the district's amount per pupil for special education support service costs, with the state cost per pupil in the budget year, excluding the average amount per pupil for special education support service costs.

Sec. 21. Section four hundred forty-two point seven (442.7), subsection eight (8), Code 1977, is amended by

striking the subsection.

Sec. 22. Section four hundred forty-two point eight (442.8), Code 1977, is amended to read as follows:

442.8 STATE COST PER PUPIL. As used in this chapter, ~~"state cost per pupil" for the school year beginning July 1, 1974, and prior school years means state cost per pupil in enrollment as enrollment was determined under section 442.4 prior to January 1, 1975, and~~ "state cost per pupil" for the school year beginning July 1, 1975, and subsequent school years means state cost per pupil in weighted enrollment. The state cost per pupil for the school year beginning July 1, 1972, is nine hundred three dollars. The state cost per pupil for the school year beginning on July 1, 1973, and for each succeeding school year is the base year's state cost per pupil plus the allowable growth for the budget year. If the state percent of growth is zero, the state cost per pupil shall be the same as the base year's state cost per pupil.

~~For the school year beginning July 1, 1975, the allowable growth added to the state cost per pupil shall be the basic allowable growth as otherwise computed under section 442.7, increased by an amount equal to the average of the amounts of allowable growth added for each school district in the state for special education support services provided through the area education agencies under sections 273.9, subsection 3, and 442.7, subsection 7, paragraph "e".~~ For each succeeding school year subsequent to the school year beginning July 1, 1975, the allowable growth added to the state cost per pupil as otherwise computed under section 442.7 shall be the basic allowable growth increased by an amount equal to the average of the amounts of allowable growth added for each school district in the state for additional special education support services needed for that year to serve newly identified children who require the services, under sections 273.9, subsection 3 and 442.7, subsection 7, paragraph "d". The state comptroller shall compute the applicable amount of allowable growth to be added to the state cost per pupil for each school year.

Sec. 23. Section four hundred forty-two point nine (442.9), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Extraordinary Session, chapter two (2), section one (1), is amended to read as follows:

442.9 DISTRICT COST PER PUPIL--DISTRICT COST--ADDITIONAL SCHOOL DISTRICT PROPERTY TAX LEVY.

1. The state comptroller shall determine the additional school district property tax levy for each school district, which is in addition to the foundation property tax levy, as follows:

a. As used in this chapter, "district cost per pupil" ~~for-the-school-year-beginning-July-1, 1974, and for prior school years means the district cost per pupil in enrollment, as enrollment was determined under section 442.4 prior to January 1, 1975, and "district cost per pupil"~~ for the school year beginning July 1, 1975, and subsequent school years means district cost per pupil in weighted enrollment. The district cost per pupil for the budget year is equal to the district cost per pupil for the base year plus the allowable growth.

b. The district cost for the budget year is equal to the district cost per pupil for the budget year multiplied by the weighted enrollment, plus the additional district cost allocated to the district under section 442.27 to fund media services and other services provided through the area education agency. A school district may not increase its district cost for the budget year except to the extent that an excess tax levy is authorized by the school budget review committee as provided in section 442.13, ~~subsection 7.~~

c. The amount to be raised by the additional school district property tax levy is equal to the district cost for the budget year, less the product of the state or district foundation base and the weighted enrollment.

2. No later than May 4 first of each year, the state comptroller shall notify the county auditor of each county the amount, in dollars and cents per thousand dollars of assessed value, of the additional property tax levy in each school district in the county. Each county auditor shall spread the additional property tax levy for each school district over all taxable property in the district.

Sec. 24. Section four hundred forty-two point thirteen (442.13), subsection five (5), paragraph c, Code 1977, is amended to read as follows:

c. Unusual transportation problems and for which the per pupil transportation costs are substantially higher than the state average per pupil transportation costs due to sparsity of the population, topographical factors, and other obstacles which hinder the efficient transportation of pupils.

Sec. 25. Section four hundred forty-two point thirteen (442.13), subsection five (5), Code 1977, is amended by adding

the following new paragraph:

NEW PARAGRAPH. Any unique problems of districts to include minority problems, vandalism, civil disobedience and other costs incurred by school districts.

Sec. 26. Section four hundred forty-two point fourteen (442.14), Code 1977, is amended to read as follows:

442.14 ADDITIONAL ENRICHMENT AMOUNT.

1. For the budget year beginning July 1, ~~1976~~ 1979, and each succeeding school year, if a school board wishes to spend more than the amount permitted under sections 442.1 to 442.13, and the school board has not attempted by resolution to raise an additional enrichment amount for that budget year, the school board may raise an additional enrichment amount not to exceed ~~five~~ ten percent of the state cost per pupil multiplied by the adjusted enrollment in the district, as provided in this section. However, the additional enrichment amount may be used only for educational research, curriculum maintenance or development, or innovative programs.

2. The board shall determine the additional enrichment amount per pupil needed, within the limits of this section, and shall direct the county commissioner of elections to submit the question of whether to raise that amount under the provisions of this section and section 442.15, to the qualified electors of the school district at a regular ~~or special~~ school election held ~~not-later-than-February-15~~ during September of the base year. If a majority of those voting favors raising the enrichment amount, the board may include the approved amount in its certified budget.

3. The additional enrichment amount needed shall be raised within the limits provided in this section by a combination of an enrichment property tax and a school district income surtax imposed in the proportion of a property tax of twenty-seven cents per thousand dollars of assessed valuation of taxable property in the district for each ~~two-and-one-half~~ five percent of income surtax.

4. The additional enrichment amount for a district is limited to the amount which may be raised by a combination tax in the prescribed proportion which does not exceed a property tax of ~~fifty-four~~ one dollar and eight cents per thousand dollars of assessed valuation and an income surtax of ~~five~~ twenty percent.

5. Any additional enrichment amount of a school district, not exceeding five percent of the state cost per pupil, which was approved at a referendum prior to July 1, 1978, shall

remain in effect for the period for which it was approved.

Sec. 27. Section four hundred forty-two point fifteen (442.15), unnumbered paragraph three (3), Code 1977, is amended to read as follows:

An additional enrichment amount authorized under section 442.14 or a lesser amount than the amount so authorized may be continued as provided in this section for a period of five school years. If the amount authorized is less than the maximum of five ten percent of the state cost per pupil and the board wishes to increase the amount, it shall re-establish its authority to do so in the manner provided in section 442.14. If the board wishes to continue any additional enrichment amount beyond the five-year period, it shall re-establish its authority to do so in the manner provided in section 442.14 within the twelve-month period prior to termination of the five-year period.

Sec. 28. Section four hundred forty-two point twenty-eight (442.28), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

If a district's weighted enrollment on the second Friday of September in the budget year, determined in the same manner as the January September weighted enrollment is determined under section 442.4, is higher than its weighted enrollment on the second Friday of January September in the base year, the district is entitled to an advance from the state of an amount equal to its district cost per pupil less the amount per pupil for special education support services, media services and other services computed as a part of district cost under the provisions of section 442.7 and section 442.27 for the budget year multiplied by its increase in weighted enrollment. The advance shall be miscellaneous income.

Sec. 29. For the school year beginning July 1, 1979, the state cost per pupil shall be increased to an amount which would otherwise have resulted for the school year beginning July 1, 1979, if the surplus balances for area education agency support services and for area education inherited funds had not been offset against the total support budgets for the school year beginning July 1, 1978. This adjustment is to compensate for the reductions made to state cost based upon the temporary offset of support budgets by certain area education agency fund balances.

Sec. 30. Notwithstanding the provisions of House File four hundred sixty-three (463), as enacted by the Sixty-seventh General Assembly, 1978 Session, as it pertains to the amount

of the reduction to the support service costs to be allocated among the school districts, the amount of the special education support services cost to be reduced for area education agency thirteen (XIII) is equal to ninety-nine thousand eight hundred ninety-nine dollars rather than a reduction of one hundred twenty-one thousand one hundred twenty dollars.

Sec. 31. To meet the special problems that result from budget reductions due to declining enrollments prior to the modifications in the adjustments for declining enrollments to take effect commencing with the school year beginning July 1, 1979, there is appropriated from the general fund of the state for the fiscal years beginning July 1, 1978 and ending June 30, 1980, to the school budget review committee the sum of two million five hundred thousand (2,500,000) dollars, or so much thereof as necessary to be used to minimize the impact of the factor listed in paragraph two (2) of this section. The school budget review committee may also establish a modified allowable growth for the school district by increasing the allowable growth for the school district to provide additional funds to assist the school district with hardships which result from the impact on the school district's budget resulting from declining enrollment.

To assess whether a district has hardships resulting from reduced funds because of declining enrollment, the school budget review committee shall consider whether the school district will be forced to terminate an existing educational program because of insufficient funds and thus diminish the overall quality of the school program for the budget year from that provided in the base year.

Sec. 32. The legislative council is directed to establish a joint subcommittee of the House and Senate committees on education composed of members of both parties to study the information received from the department of public instruction federally financed state equalization of educational opportunity study which is scheduled for completion in September of 1978. The Sixty-seventh General Assembly recognizes the needs of pupils for equal educational opportunity can be improved over the existing school finance formula. The weighting system to provide the funds necessary to assist in the education of children requiring special education has greatly assisted Iowa's educational program to meet the needs of these pupils, placing Iowa's program as one of the best in the nation for children requiring special education. It is recognized that a funding system designed

to meet the educational and financial needs of children may require a substantial rewriting of the current school finance system. The subcommittee shall prepare a final report and submit necessary bill drafts to implement the recommendations of the subcommittee to the Sixty-eighth General Assembly.

Sec. 33. For the school years beginning July 1, 1979 and July 1, 1980 only, a school district may make application to the department of public instruction for approval of a program of instruction for gifted and talented children to be funded by an increase in allowable growth, as defined in section four hundred forty-two point seven (442.7) of the Code. The department shall promulgate rules under the provisions of chapter seventeen A (17A) of the Code relating to administration of sections thirty-three (33) through thirty-eight (38) of this Act.

Sec. 34. The program plans submitted by school districts shall describe the type of program to be offered and shall establish all of the following:

1. That there are sufficient gifted and talented children within the district.
2. That the gifted and talented children program will be provided by the most appropriate educational agency.
3. That the school district or other educational agency providing the gifted and talented children program has employed qualified personnel.
4. That the instruction is a natural and normal progression of a planned course of instruction.
5. That the revenue raised for support of the gifted and talented program will be expended for actual delivery of a gifted and talented children program.
6. Other factors as the department may require.

Sec. 35. "Gifted and talented children" are those identified as possessing outstanding abilities who are capable of high performance. Gifted and talented children are children who require differentiated educational programs or services beyond those provided by the regular school program.

Gifted and talented children include those with demonstrated achievement or potential ability in any two or more of the following areas:

1. Creative thinking.
2. Leadership ability.
3. Visual and performing arts ability.
4. Specific ability aptitude.
5. Intellectual ability.

Sec. 36. The department of public instruction may approve gifted and talented children programs for the school years beginning July 1, 1979 and July 1, 1980 only, for not more than ten school districts in this state, including districts of various enrollments and geographic locations.

Sec. 37. The department shall inform the school budget review committee of the names of the school districts approved for gifted and talented children programs and the approved budget of each program. The school budget review committee shall approve a modified allowable growth for each such district as an unusual circumstance, under the authority granted to it in section four hundred forty-two point thirteen (442.13) of the Code, to provide funds equal to the budget approved by the department of public instruction.

Sec. 38. The area education agencies in which the school districts having approved gifted and talented children programs are located shall cooperate with the school district in the identification and placement of gifted and talented children and may assist school districts in the establishment of such programs.

Sec. 39. If the voters of a school district have approved the levying of a tax pursuant to section three hundred point two (300.2) of the Code prior to the effective date of this Act, moneys collected pursuant to the voted tax levy after the effective date of this Act may be used for community education programs.

Sec. 40. The purpose of sections seventeen (17) and thirty-one (31) of this Act is to allow school districts to meet the increasing financial pressures caused by declining enrollment by providing an appropriation to the school budget review committee for the 1978-1980 school years and establishing a temporary modified adjusted enrollment for the 1979-1980 school year.

Sec. 41. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in *The Sun & The Hawkeye Record-Herald*, a newspaper published in Mount Vernon, Iowa, and in the *Adams County Free Press*, a newspaper published in Corning, Iowa.

Approved June 22, 1978

I hereby certify that the foregoing Act, House File 2361, was published in *The Sun & The Hawkeye Record-Herald*, Mount Vernon, Iowa on June 28, 1978, and in the *Adams County Free Press*, Corning, Iowa on July 6, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1100
SCHOOL BOARD SECRETARY

H. F. 2136

AN ACT relating to qualifications required for a school board secretary.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-seven (97), section two (2), amending section two hundred seventy-nine point three (279.3), Code 1977, is amended to read as follows:

279.3 APPOINTMENT OF SECRETARY AND TREASURER. At a regular or special meeting of the board held in July prior to or on July fifteenth the board shall appoint a secretary who shall not be a teacher ~~or other~~ employed by the board but may be another employee of the board. It shall also appoint a treasurer who may be another employee of the board. These officers shall be appointed from outside the membership of the board for terms of one year beginning with the date of appointment, and the appointment and qualification shall be entered of record in the minutes of the secretary. They shall qualify within ten days following appointment by taking the oath of office in the manner required by section two hundred seventy-seven point twenty-eight (277.28) of the Code and filing a bond as required by section two hundred ninety-one point two (291.2) of the Code and shall hold office until their successors are appointed and qualified.

Approved April 17, 1978

CHAPTER 1101

TAXES AND BUDGETS OF AREA SCHOOLS AND COLLEGES

H. F. 2137

AN ACT relating to the tax levied and budget approval dates for the operation of an area vocational school or area community college.

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

Section 1. Section two hundred eighty A point seventeen (280A.17), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The board of directors of each merged area shall prepare an annual budget designating the proposed expenditures for operation of the area vocational school or area community college. The board shall further designate the amounts which are to be raised by local taxation and the amounts which are to be raised by other sources of revenue for such operation. The budget of each merged area shall be submitted to the state board no later than ~~December 1~~ May first preceding the next fiscal year for approval. The state board shall review the proposed budget and shall, prior to ~~January 1~~ June first, either grant its approval or return the budget without approval with the comments of the state board attached thereto. Any unapproved budget shall be resubmitted to the state board for final approval. Upon approval of the budget by the state board, the board of directors ~~shall prorate the amount to be raised by local taxation among the respective school districts, in the proportion that the value of taxable property in each school district bears to the total value of taxable property in the area. The board of directors~~ shall certify the amount ~~so determined~~ to the respective county auditors and the boards of supervisors annually shall levy a tax ~~sufficient to raise the amount. No tax in excess~~ of twenty and one-fourth cents per thousand dollars of assessed value ~~shall be levied~~ on taxable property in a merged area for the operation of an area vocational school or area community college. Taxes collected pursuant to such levy shall be paid by the respective county treasurers to the treasurer of the merged area in the same manner that other school taxes are paid to local school districts.

Sec. 2. Section two hundred eighty A point twenty-two (280A.22), unnumbered paragraph one (1), Code 1977, is amended

to read as follows:

In addition to the tax authorized under section 280A.17, the voters in any merged area may at the annual school election vote a tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value in any one year for a period not to exceed ~~five~~ ten years for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and the acquisition of libraries, and for the purpose of maintaining, remodeling, improving, or expanding the area vocational school or area community college of the merged area which tax shall be collected by the county treasurers and remitted to the treasurer of the merged area as other taxes are collected and remitted, and the proceeds of said tax shall be deposited in a separate and distinct fund to be known as the voted tax fund, to be paid out upon warrants drawn by the president and secretary of the board of directors of the merged area district for the payment of costs incurred in providing the school facilities for which the tax was voted.

Approved May 9, 1978

CHAPTER 1102

SALE OF STUDENT CONSTRUCTED BUILDINGS

H. F. 2277

AN ACT relating to the sale by area schools of student-constructed buildings and certain property.

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

Section 1. Section two hundred eighty A point twenty-three (280A.23), subsection seven (7), Code 1977, is amended to read as follows:

7. Have authority to sell a student-constructed building and the property on which the student-constructed building is located or any article resulting from any vocational program or course offered at an area vocational school or area community college by any procedure which may be adopted by the board. Governmental agencies and governmental subdivisions of the state within the merged areas shall be given preference in the purchase of such articles. All revenue received from the sale of any article shall be credited to the funds of the board of the merged area.

Approved May 16, 1978

CHAPTER 1103

SPECIAL EDUCATION TEACHERS

H. F. 2368

AN ACT to repeal the authority of the special education division of the department of public instruction to provide standards and certification for special education teachers.

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

Section 1. Section two hundred eighty-one point three (281.3), Code 1977, is amended by striking subsection two (2).

Approved June 12, 1978

CHAPTER 1104

OBSOLETE AND INCONSISTENT PROVISIONS OF THE CODE

H. F. 2033

AN ACT relating to obsolete or inconsistent provisions of the Code.

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

Section 1. Section two hundred eighty-six A point five (286A.5), Code 1977, is amended to read as follows:

286A.5 INFORMATION FURNISHED BY SCHOOL DISTRICT. At the close of each school year, but not later than July 5 fifth, the local district or merged area school shall supply to the state department of public instruction the information required for calculation of the amount reimbursable to the district for elementary and secondary school. For any day student who has been enrolled on a less than a full school-day basis, the reimbursement shall be calculated proportionately to the portion for which he or she is enrolled as shall be determined by the state department of public instruction. ~~For school districts operating a junior college or community college, the aid to the district for such college shall be separately appropriated, calculated, prorated when necessary, and paid as hereinafter provided in sections 286A.8 to 286A.10.~~ Forms for reporting information to calculate aid for elementary and secondary school purposes shall be supplied by the state department of public instruction to each school district not later than June 4 first. On or before August 4 first, the

state department of public instruction shall furnish to the state comptroller estimates of the amount reimbursable for the year to each school district for general aid for elementary and secondary school purposes and upon said estimates the state comptroller shall, on or about August 4 first, make payment of the first half of the annual amount appropriated for such general aid. After all such claims have been calculated for the year and validated for accuracy, the state department of public instruction shall certify the same to the state comptroller prior to February 4 first. On or about February 4 first, the state comptroller shall make payment to the school districts, of the balance of the amount appropriated for such general aid, which, when taken with the first half payment, conforms to the amount of full year reimbursement due each school district as then validated and certified by the state department of public instruction. In the event that the amount appropriated for reimbursement of the school districts for such purposes is insufficient to pay in full the amounts to each of the school districts or merged areas, then the amount of each payment shall be reduced by the state comptroller in the ratio that the total respective funds appropriated and available for such aid bears to the respective total amounts certified for reimbursement. All funds received or to be received under the provisions of this chapter shall be taken into account and considered by each school district or merged area when estimating the amount required for the general fund.

Sec. 2. Section two hundred eighty-six A point ten (286A.10), unnumbered paragraph one (1), and subsections one (1) and two (2), Code 1977, are amended to read as follows:

Payment of the aid provided in ~~sections-286A.8-and~~ section 286A.9 shall be made to each merged area ~~and to each school district operating a junior or community college on a quarterly basis~~, at the end of each quarter of the school year, which commences on July 4 first and ends on the following June 30 thirtieth, in the following manner:

1. At the close of each school year but not later than July 5 fifth, the board of directors of each such ~~school district or~~ merged area shall certify to the state department of public instruction the information necessary to compute the aid entitlement, as hereinabove provided, for the school year ending on June 30 thirtieth immediately preceding the said July 4 first. In addition thereto, each said board shall certify to the state department, its best bona fide estimate

of what the same data and information will be for the school year that commences upon the said July 4 first, and ends on the following June 30 thirtieth.

2. On the basis of estimates certified, as provided in subsection 1 hereof, thirty percent of the anticipated aid entitlement for each such ~~school-district-or~~ merged area shall be paid to the ~~district-or~~ merged area at the end of each of the first three quarters of the school year for which said estimates have been certified. The aid payment for the fourth quarter shall be equal to the difference between the aggregate aid payments for the first three quarters and the total amount of aid entitlement computed on the basis of the actual information required for calculation, as certified in the following July, plus or minus such pro rata amount as may be necessary to make the aggregate total of general school aid paid to all such ~~school-districts-or~~ merged areas, ~~as the case may be~~, for the said year equal to the respective amounts of aid funds appropriated for payment to such ~~districts or~~ areas in the said year.

Sec. 3. Chapters twenty-two (22)^{*}, twenty-eight C (28C), thirty (30), one hundred eighty-two (182), two hundred seven (207), two hundred nine (209); and sections twenty-five A point fourteen (25A.14), subsection six (6), twenty-nine A point fifty-six (29A.56), one hundred thirty-five point sixteen (135.16), one hundred thirty-five point seventeen (135.17), one hundred forty-seven point twenty-three (147.23), two hundred eighteen point six (218.6) through two hundred eighteen point eight (218.8), two hundred eighteen point thirty-four (218.34) through two hundred eighteen point thirty-nine (218.39), two hundred thirty-four point six (234.6), subsection two (2), two hundred thirty-four point eight (234.8)^{**}, two hundred thirty-five point four (235.4), two hundred forty-five point sixteen (245.16), two hundred eighty-six A point eight (286A.8), and three hundred thirty-two point forty-five (332.45) through three hundred thirty-two point forty-eight (332.48), Code 1977, and section three hundred thirty-two point forty-nine (332.49), Code 1977 Supplement are repealed.

Approved April 17, 1978

*See §64.6(23) of the Code

**See §239.16 of the Code

CHAPTER 1105

DEPOSITORY LIBRARY CENTER

S. F. 2100

AN ACT relating to the establishment of a depository library center within the Iowa library department.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act unless the context otherwise requires:

1. "State agency" means a legislative, executive, or judicial office of the state and all of its respective officers, departments, divisions, bureaus, boards, commissions, committees, and state institutions of higher education governed by the state board of regents.

2. "State publications" means all multiply-produced publications of state agencies regardless of format which are supported by public funds, except correspondence and memoranda intended solely for internal use within the agency or between agencies, and materials designated by law as being confidential.

3. "Depository library" means a library designated for the deposit of state publications under the provisions of this Act.

Sec. 2. NEW SECTION. DEPOSITORY LIBRARY CENTER. There is created within the Iowa library department a depository library center. The state librarian shall appoint a depository librarian who shall administer the depository library center. The depository library center shall be the central agency for the collection and distribution of state publications to depository libraries.

Sec. 3. NEW SECTION. DUTIES OF THE DEPOSITORY LIBRARIAN. The depository librarian shall:

1. Enter into agreements according to rules promulgated by the depository librarian pursuant to chapter seventeen A (17A) of the Code with libraries for the deposit of state publications in the libraries. Rules shall provide for the classification of the libraries into depository libraries which, for a specified period of time, maintain either a full collection of state publications or a selected core of state publications. The state library commission and the state university of Iowa shall each permanently maintain two copies

of each state publication. One copy shall not be removed from the library and the other copy may be loaned.

2. Adopt a classification scheme for state publications and establish a record of the number and manner of distribution.

3. Annually advise state agencies of the number of copies of each class of publication needed for distribution.

4. Prepare, publish, and distribute on a quarterly basis without charge to depository libraries, and upon the request of other libraries or by subscription, a list of state publications which list shall include a cumulated index. The depository library center established in section two (2) of this Act shall also prepare and publish decennial cumulative indexes.

5. Provide to the library of Congress two copies of each state publication collected.

Sec. 4. NEW SECTION. Upon issuance of a state publication a state agency shall deposit with the depository library center at no cost to the center, seventy-five copies of the publication, or a lesser amount if specified by the depository librarian.

Sec. 5. Section eighteen point sixty-three (18.63), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The director may establish a central ~~library-and-depository sales and distribution center~~ from which shall be distributed all books, pamphlets, documents, reports and publications not required by law to be otherwise distributed. The director shall from time to time establish the cost of printing and distribution or mailing each book, pamphlet, report, document and publication. The director shall, thereafter, cause to be delivered, sent, or mailed to anyone requesting a book, pamphlet, report, document, or publication upon receipt of the cost thereof plus distribution or mailing charges. Anyone may examine a copy of any book, pamphlet, document, report or publication at the central ~~library-and-depository~~. ~~The director may exempt from the provisions of this section any pamphlet or publication which only lists the services available from a state department or agency sales and distribution center.~~

Sec. 6. Section eighteen point ninety-seven (18.97), subsection seventeen (17), Code 1977 Supplement, is amended to read as follows:

17. To ~~library-of-Congress-and~~ the library

of the United States supreme court1 copy each

Sec. 7. Section eighteen point ninety-seven (18.97), Code 1977 Supplement, is amended by striking subsection eighteen (18).

Sec. 8. Section eighteen point ninety-seven (18.97), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. To the depository library center established pursuant to section two (2) of this Act 75 copies

Sec. 9. Section seventeen point thirty-three (17.33), Code 1977, is repealed.

Approved May 8, 1978

CHAPTER 1106

ART PROJECTS IN STATE CONSTRUCTION

S.F. 72

AN ACT relating to the inclusion of fine arts projects in state building construction projects in cooperation with the Iowa state arts council.

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

Section 1. Chapter three hundred four A (304A), Code 1977, is amended by adding sections two (2) through eight (8) of this Act.

Sec. 2. NEW SECTION. When used in this Act:

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; 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, 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.

Sec. 3. NEW SECTION. 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, coordinate with the Iowa state arts council, which shall provide for consultation to ensure that the fine arts elements will be integrated within, on, or about the total environment of such construction.

Sec. 4. NEW SECTION. 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 Act 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.

Sec. 5. NEW SECTION. The contracting officer, the principal user and the building architect shall coordinate with the Iowa state arts council all matters relating to the selection of the fine arts elements to be included or purchased for a state building as authorized by section four (4) of this Act.

Sec. 6. NEW SECTION. Contracts for the fine arts elements shall be executed within the limits of the estimated costs as determined by section four (4) of this Act. All expenses related to the acquisition of the fine arts elements shall be contracted for separately with the funds allocated for these purposes.

Sec. 7. NEW SECTION. 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.

Sec. 8. NEW SECTION. 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 Iowa state arts council 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.

Approved June 2, 1978

CHAPTER 1107

RIGHT-OF-WAY TRANSFERS

S.F. 2068

AN ACT relating to transfer of rights-of-way between the state and political subdivisions of the state.

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

Section 1. Chapter three hundred six (306), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter ninety-nine (99), is amended by adding the following new section:

NEW SECTION.

1. This section is intended to vest all documents of title in road right-of-way in the jurisdiction responsible for the road. This section establishes a simple method to transfer road rights-of-way by quit claim deed and to authorize the use of available descriptions, plats, maps or engineering drawings to effect such transfers and to provide an orderly method by which such transfers may be filed, indexed and recorded.

2. The state department of transportation shall transfer by quit claim deed to the county or to the city having jurisdiction over a road, all of the state's legal or equitable title and interest in right-of-way for the road or street and may transfer any adjacent unused right-of-way or land in excess of that needed as right-of-way. The deed shall be executed by the director of the department by order of the state transportation commission.

3. The county or the city shall transfer by quit claim deed to the state department of transportation when having jurisdiction over a road, all of the county's or the city's legal or equitable title and interest in rights-of-way for the road and may transfer any adjacent unused right-of-way or land in excess of that needed as right-of-way. The deed

shall be executed by the chairman of the board of supervisors by order of the board for county roads and by the mayor or city manager by order of the city council for city streets.

4. Transfers under this section shall be subject to the right of a utility, association, company or corporation to continue in possession of a right-of-way in use at the time of the transfer. Transfers shall be subject to rights of ingress and egress whether excepted, reserved or granted by the transferring authority to land or to owners of land adjacent to the right-of-way. Transfers shall include an index of parcels transferred by the character of the instrument or proceeding, the grantor and grantee, and date of the last instrument or proceeding acquiring rights to each parcel. Transfers shall locate the right-of-way by quarter-quarter section, township and range or if so acquired, by lot, block and subdivision. The transferring jurisdiction shall transmit to the receiving jurisdiction all available original documents of title or a certified true copy if the right-of-way was acquired by condemnation or the original deed is lost. Transfers shall be recorded and indexed in the county in which the land is located.

5. Notwithstanding requirements of chapter one hundred fourteen (114) and sections three hundred six point twenty-two (306.22), three hundred thirty-two point three (332.3), subsection thirteen (13), sections three hundred sixty-four point seven (364.7), four hundred nine point twelve (409.12), four hundred nine point fourteen (409.14) and four hundred seventy-one point twenty (471.20) of the Code, legal descriptions, plats, maps or engineering drawings used to describe transfers of right-of-way shall, where available, be descriptions, plats, maps or engineering drawings of record and shall be incorporated by reference to such title instrument or proceedings. Where a part but not all of the land acquired by a single conveyance or condemnation is being transferred, the description of that part to be transferred shall be abstracted from the present legal description, plat, map or engineering drawing of record.

Sec. 2. The provisions of this Act shall become effective January 1, 1979.

Approved June 27, 1978

CHAPTER 1108
ROADS AND FUEL TAXES

H. F. 491

AN ACT relating to transportation providing for an expression of the legislative intent concerning diagonal roads, lowering the freeway-expressway system total mileage, providing for functional reclassification of roads in the state, development of a quadrennial needs study, inclusion of the area school and state fair grounds roads and bridges in the park and institution road maintenance allocation and providing for a quadrennial need study of park and institution roads and bridges, changing the allocation formula from the road use tax fund to provide forty-five percent to the primary road fund, twenty-eight percent to the secondary road fund, nine percent to the farm-to-market road fund, and eighteen percent to the cities, providing for definitional changes of certain roads, requiring certain annual reports by cities, raising the motor fuel and special fuel tax to ten cents per gallon and the Diesel engine special fuel tax to eleven and one-half cents per gallon, eliminating the one-half of one cent of motor fuel and other special fuel tax to the primary road fund, providing an exemption from fuel taxes for political subdivisions, authorizing the department of transportation to conduct a study, providing appropriations, and repealing certain sections.

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

Section 1. Chapter three hundred six (306), Code 1977, is amended by adding the following new section:

NEW SECTION. It is declared to be the policy of the state of Iowa that relocation of primary highways through cultivated land shall be avoided to the maximum extent possible. Whenever the volume of traffic for which the road is designed or other conditions require such relocation, diagonal routes shall be avoided wherever feasible and prudent alternatives exist.

It is further declared that improvement of two-lane roads shall utilize the existing right-of-way unless alignment or other conditions make changes imperative, and when any two-lane road is expanded to a four-lane road, the normal procedure would be that the additional right-of-way would be contiguous to the existing right-of-way unless relocated for compelling reasons. This policy shall not apply to any highway project for which the corridor has been approved by the state department of transportation and which corridor has been finalized by September 1, 1977.

Sec. 2. Section three hundred six point one (306.1), subsection two (2), paragraph a, Code 1977, is amended to read as follows:

a. The freeway-expressway system shall consist of those roads connecting and serving the major urban and regional areas of the state with high volume, long-distance traffic movements, and generally connecting with like roads of adjacent states. The national system of interstate and defense highways shall be a part of the freeway-expressway system. The freeway-expressway system, including the national interstate and defense highway mileage, shall not exceed three two thousand six hundred sixty miles.

Sec. 3. Section three hundred six point six (306.6), subsection two (2), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

It shall be the responsibility of the state functional classification review board to hear any and all appeals from classification boards or board members, relative to disputes arising out of the functional classification of any segment of highway or street. It shall also be the responsibility of the board to establish the necessary guidelines, procedures, and the time limits to be followed in transferring jurisdiction in accordance with section three hundred six point eight (306.8), of the Code. The state functional classification review board shall have the authority and the responsibility to make final administrative determinations based on sound functional classification principles for all disputes relative to functional classification including those disputes relative to the transfer of jurisdictions. The review board shall also serve, when requested jointly by state and local jurisdictions, as an advisory committee for review and adjustment of construction and maintenance guidelines used in updating road and street needs studies.

Sec. 4. Section three hundred six point eight (306.8), Code 1977, is amended to read as follows:

306.8 TRANSFER OF JURISDICTION. When a change of jurisdiction occurs as a result of the classification or reclassification of a road or street, the unit of government having jurisdiction shall, prior to such change of jurisdiction, either place the road or street and any structures thereon on the road in good repair sufficient-for the-traffic-thereon or provide for the transfer of money to the appropriate jurisdiction sufficient for the repairs to

the road or street and any structures on the road.

Transfers of the jurisdiction and control of roads and streets may take place if agreements are entered into between the jurisdictions of government involved in the transfer of such roads and streets.

Sec. 5. Section*three hundred seven A (307A), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. For the four year period beginning July 1, 1979, and for each subsequent four year period, prepare, adopt and cause to be published the results of a study of all roads and streets in the state. The study shall be so designed to investigate present deficiencies and future twenty-year maintenance and construction needs of the roads and the ability of each applicable authority to meet the needs for the planning, construction, repair and maintenance of roads within their jurisdiction. The commission shall have the authority to gather information necessary to complete this study and shall be furnished such assistance from any state agency as necessary to prepare, update and publish a report to be referred to as the "quadrennial need study" for the purposes of this chapter and chapter three hundred twelve (312) of the Code. This subsection shall not preclude the commission from updating the quadrennial need study when necessary to reflect changes in road and street needs in the state.

Sec. 6. Section three hundred seven A point two (307A.2), subsection eleven (11), Code 1977, is amended to read as follows:

11. Construct, reconstruct, improve and maintain state institutional roads and state park roads as defined in section 306.3 and bridges on such roads, roads located on state fair grounds as defined in chapter one hundred seventy-three (173) of the Code and the roads and bridges located on area school property as defined in chapter two hundred eighty A (280A) of the Code upon the request of the state board, department or commission which has jurisdiction over such roads. This shall be done in such manner as may be agreed upon by the commission and the state board, department or commission which has jurisdiction. The commission may contract with any county or municipality for the construction, reconstruction, improvement or maintenance of such roads and bridges. Any state park road which is an extension of either a primary or secondary highway which both enters and exits from a state park at separate points shall be constructed, reconstructed,

*According to enrolled Act

improved and maintained as provided in section 306.4. Funds allocated from the road use tax fund for the purposes of this subsection shall be apportioned in the ratio that the needs of the state institution roads and bridges, park roads and bridges or area school roads and bridges bear to the total needs of these facilities based upon the most recent quadrennial park and institution need study. The commission shall conduct a study of the road and bridge facilities in state parks, state institutions, state fair grounds and on area school property. The study shall evaluate the construction and maintenance needs and projected needs based upon estimated growth for each type of facility to provide a quadrennially updated standard upon which to allocate funds appropriated for the purposes of this subsection.

Sec. 7. Section three hundred twelve point two (312.2), Code 1977, is amended to read as follows:

312.2 ALLOCATIONS FROM FUND. The treasurer of the state shall, on the first day of each month, credit all road use tax funds which have ~~come-into-his-hands~~ been received by the treasurer, to the primary road fund, the secondary road fund of the counties, the farm-to-market road fund, and the street construction fund of cities in the following manner and amounts:

1. To the primary road fund, ~~forty-seven~~ forty-five percent.
2. To the secondary road fund of the counties, ~~twenty-nine~~ twenty-eight percent.
3. To the farm-to-market road fund, nine percent.
4. To the street construction fund of the cities, ~~fifteen~~ eighteen percent.
5. The treasurer of state shall before making the above allotments credit annually to the highway grade crossing safety fund the sum of five hundred thousand dollars, credit annually from the road use tax fund the sum of five hundred thousand dollars to the highway railroad grade crossing surface repair fund, credit annually monthly to the primary road fund the ~~sum-of-one-million-four-hundred-thousand~~ dollars yielded from an allotment of sixty-five hundredths of one percent of all road use tax funds for the express purpose of carrying out subsection 42 eleven (11) of section 307A.2, the-last paragraph-of section 313.4, subsection two (2), of the Code and section 307A.5, and credit annually to the primary road fund the sum of five hundred thousand dollars to be used for paying expenses incurred by the state department of

transportation other than expenses incurred for extensions of primary roads in cities. All unobligated funds provided by this subsection, except those funds credited to the highway grade crossing safety fund, shall at the end of each year revert to the road use tax fund. Funds in the highway grade crossing safety fund shall not revert to the road use tax fund except to the extent they exceed five hundred thousand dollars at the end of any biennium.

~~6. The treasurer of state shall before making the above allotments credit annually to the primary road fund the sum of two million five hundred thousand dollars or an amount equal to one ninth of the federal allotment whichever is the smaller, said sum to be used for matching the federal allotment to the state of Iowa for the use of the interstate and national defense highways in the state of Iowa.~~

7 6. The treasurer of state shall before making the allotments provided for in this section credit monthly to the division of motor vehicle registration of the state department of transportation funds sufficient in amount to pay the costs of purchasing supplies and materials and for the cost of prison labor used in manufacturing motor vehicle registration plates, decalcomania emblems, and validation stickers at the prison industries.

7. The treasurer of state, before making the allotments provided in this section, shall credit annually to the primary road fund from the road use tax fund the sum of seven million one hundred thousand dollars.

8. Beginning July 1, 1981, and each subsequent year, the treasurer of state, before making any allotments to counties under the provisions of this section, shall reduce the allotment to any county for the secondary road fund by an amount by which the total funds that the county raised during the prior calendar year under the provisions of section three hundred nine point eight (309.8), subsections one (1), three (3), and four (4), of the Code are less than seventy-five percent of the maximum funds that the county could have raised in the prior calendar year under the provisions of section three hundred nine point seven (309.7) of the Code. Funds remaining in the secondary road fund of the counties due to a reduction of allocations to counties for failure to maintain a minimum local tax effort shall be reallocated to counties that are not reduced under the provisions of this subsection pursuant to the allocation provisions of section three hundred twelve point three (312.3), subsection one (1), of the Code,

based upon the needs and area of the county. Information necessary to make allocations under this subsection shall be provided by the state department of transportation or the state comptroller upon request by the treasurer of state.

9. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the Iowa Department of Soil Conservation five hundred thousand (500,000) dollars from the road use tax funds. The Department of Soil Conservation, in cooperation with the Department of Transportation and the Iowa Conservation Commission shall expend such funds, for the lease or other use of land intended for the planting or maintenance of wind erosion control barriers designed to reduce wind erosion interfering with the maintenance of highways in the state or the safe operation of vehicles thereon.

Sec. 8. Section three hundred twelve point four (312.4), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The amount of the road use tax fund which has been credited to carry out the provisions of section three hundred seven A point two (307A.2), subsection eleven (11), section three hundred thirteen point four (313.4), subsection two (2), and section three hundred seven A point five (307A.5) of the Code.

Sec. 9. Section three hundred twelve point three (312.3), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. Apportion among the counties in the ratio that the needs of the secondary roads of each county bear to the total needs of the secondary roads of the state for the twenty-year improvement program developed by the automotive safety foundation and filed with the Iowa highway study committee created by chapter 426, Acts of the Fifty-eighth General Assembly through the period ending June 30, 1979, and for each year beginning July 1, 1979, based upon the total needs of secondary roads of the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department, sixty percent of the allocation from road use tax funds which ~~he-has~~ is credited to the secondary road fund of the counties, and apportion among the counties in the ratio that the area of such county bears to the total area of the state, forty percent of the allocation from road use tax funds which ~~he has~~ is credited to the secondary road fund of the counties. However, for a hold harmless period each county shall be

guaranteed a base year amount. The amount in the secondary road fund of the counties in each fiscal year during the hold harmless period in excess of the sum of the base period amounts allocated to all counties shall be distributed proportionally based on the relative needs and area factors to only those counties entitled to receive more than the base year amount.

For the purposes of this subsection:

a. "Hold harmless period" means the fiscal years beginning July 1, 1979 and ending June 30, 1983.

b. "Base year amount" means the amount of the secondary road fund of the counties received by a county for the fiscal year beginning July 1, 1977.

2. Apportion among the cities of the state, in the ratio which the population of each city, as shown by the latest available federal census, bears to the total population of all such cities in the state, the ~~fifteen-percent~~ percentage of the road use tax funds which ~~he-has~~ is credited to the street fund of the cities, and shall remit to the city clerk of each such city the amount so apportioned to such city. A city may have one special federal census taken each decade, and the population figure thus obtained shall be used in apportioning amounts under this subsection beginning the calendar year following the year in which the special census is certified by the secretary of state.

Sec. 10. Section three hundred twelve point five (312.5), unnumbered paragraph three (3), Code 1977, is amended to read as follows:

Need allotment farm-to-market road funds shall be allotted among the counties in the ratio that the needs of the farm-to-market roads in each county bear to the total needs of the farm-to-market roads in the state for the twenty-year program developed by the automotive safety foundation and filed with the Iowa highway study committee created by chapter 426, Acts of the Fifty-eighth General Assembly through the period ending June 30, 1979, and for each year beginning July 1, 1979, based upon the total needs of the farm-to-market roads in the state as shown in the latest quadrennial need study report developed by the state department of transportation, and which is on record at the department. However, for a hold harmless period each county shall be guaranteed a base year amount. The amount in the farm-to-market road fund in each fiscal year during the hold harmless period in excess of the sum of the base period amounts allocated to all counties shall be distributed proportionally

based on the relative needs and area factors to only those counties entitled to receive more than the base year amount.

For the purposes of this section:

a. "Hold harmless period" means the fiscal years beginning July 1, 1979 and ending June 30, 1983.

b. "Base year amount" means the amount of the farm-to-market road fund received by a county for the fiscal year beginning July 1, 1977.

Sec. 11. Section three hundred twelve point eleven (312.11), Code 1977, is amended to read as follows:

312.11 ACCOUNTS OF EXPENDITURES--~~PERCENTAGE-REQUIRED-ON~~ ~~ARTERIAL-STREETS~~. Each city shall keep accounts showing the amount spent on street construction and reconstruction ~~on arterial-streets on extensions of rural systems, municipal arterial and municipal collector systems as classified pursuant to section three hundred six point six (306.6) of the Code~~ and the amount spent on street construction and reconstruction ~~on local-streets municipal service systems~~. Such amounts spent on ~~arterial-streets extensions of rural systems, municipal arterial, and municipal collector systems~~ and such amounts spent on ~~local-streets municipal service systems~~ shall be shown on the annual street report required by section 312.14.

~~Of-the-total-street-construction-and-reconstruction expenditures-made-each-year-from-road-use-tax-funds-by-each city,-at-least-seventy-five-percent-shall-be-spent-on-the arterial-streets-of-such-city.--However,-if-any-city-council by-resolution-declares-that-the-seventy-five-percent-is-not needed-on-its-arterial-streets,-then-it-may-be-used-on-any other-streets-in-the-city.~~

Sec. 12. Section three hundred twelve point twelve (312.12), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

312.12 PROGRAMS SUBMITTED. Cities which receive funds from road use tax funds and which have a population of at least five thousand shall prepare, adopt and submit to the department on or before December first of each year a comprehensive program of street construction and reconstruction. Such program shall be prepared for a period of five fiscal years subsequent to the fiscal year in which the program is submitted, based upon the construction funds estimated to be available for each fiscal year. At the close of each fiscal year, as a part of the five-year plan, the city shall include a statement of the progress made toward

the completion of each project contained in the approved program. Such cities which have a population of less than five thousand and greater than one thousand shall prepare and submit annually by December thirty-first of each year to the department for examination and review, a program of proposed street construction and reconstruction for its total system of streets for the ensuing fiscal year. Nothing in this section shall prohibit a city of less than five thousand from adopting by resolution a comprehensive five-year plan.

Sec. 13. Section three hundred twelve point fifteen (312.15), Code 1977, is amended to read as follows:

312.15 WHEN FUNDS NOT ALLOCATED. ~~No-funds~~ Funds shall not be allocated to any city until such city shall have complied with the provisions of sections ~~312.12~~ and three hundred twelve point eleven (312.11), three hundred twelve point twelve (312.12) and 312.14, of the Code.

The department shall notify the treasurer of state if any city fails to comply with the provisions of sections ~~312.12~~ to three hundred twelve point eleven (312.11), three hundred twelve point twelve (312.12) and 312.14, of the Code.

Sec. 14. Section three hundred thirteen point two (313.2), unnumbered paragraphs six (6), seven (7), and eight (8), Code 1977, are amended to read as follows:

Reasonable maintenance and surveillance of rest area sites and buildings located thereon shall be provided by ~~regular maintenance~~ employees of the department ~~under the district maintenance engineer in the district where the rest areas are located~~ within the limits of appropriations provided for such purpose.

~~No transfer of jurisdiction and control of any road or street as required by this Act shall be effective until the enactment of legislation which allocates the road use tax fund in a manner different from the law existing on January 1, 1974, and in a manner which compensates state, county and municipal jurisdictions for additional highway, road or street needs acquired by such transfer as determined by the department.~~

~~Notwithstanding the foregoing provision of this section, transfers in jurisdiction and control of roads and streets may take place if agreements are entered into by the jurisdictional divisions of government involved in the transfer of such roads and streets.~~

Sec. 15. Section three hundred thirteen point four (313.4), subsection two (2), Code 1977, is amended to read as follows:

2. Such fund is also appropriated and shall be used for the construction, reconstruction, improvement and maintenance of state institutional roads and state park roads and bridges on such roads and roads and bridges on area school property as provided in subsection 42 eleven (11) of section 307A.2 of the Code, for restoration of secondary roads used as primary road detours and for compensation of counties for such use, for restoration of municipal streets so used and for compensation of cities for such use, and for the payments required in section 307A.5.

Sec. 16. Section three hundred twenty-four point three (324.3), Code 1977, is amended to read as follows:

324.3 LEVY OF EXCISE TAX--EXEMPTIONS--CREDITS. For the privilege of operating motor vehicles in this state an excise tax of ~~seven-cents-a-gallon~~ eight and one-half cents per gallon beginning July 1, 1978, and ten cents per gallon beginning July 1, 1979 is hereby imposed upon the use of all motor fuel used for any purpose except motor fuel containing at least ten percent alcohol distilled from agricultural products for the period beginning July 1, 1978 and ending June 30, 1983 and except as otherwise provided in this division. The tax shall be paid in the first instance by the distributor upon the invoiced gallonage of all motor fuel received by ~~him~~ the distributor in this state, within the meaning of the word "received" as defined in this division, less the deductions hereinafter authorized. Thereafter, except as otherwise provided, the per gallon amount of such tax shall be added to the selling price of each and every gallon of such motor fuel sold in this state and collected from the purchaser to the end that the ultimate consumer shall bear the burden of such tax; provided, however, that no tax shall be imposed or collected under this division with respect to the following:

1. Motor fuel sold for export or exported from this state to any other state, territory, or foreign country.

2. Motor fuel sold to the United States or any agency or instrumentality thereof.

3. Motor fuel sold to any post exchange or other concessionaire on any federal reservation within this state; but the tax on motor fuel so sold, to the extent permitted by federal law, shall be collected by the post exchange or concessionaire, reported and paid the department of revenue.

4. Motor fuel sold to the state of Iowa or any of its agencies, ~~but this exemption shall not apply to~~ or to any

political subdivisions of this state. Each state agency and political subdivision shall file with the department of revenue prior to January fifteenth in each year a report of the number of gallons of motor fuel and special fuel purchased by the state agency or the political subdivision in the prior calendar year and a calculation of the amount of motor fuel and special fuel tax that would have been required for the previous calendar year if the state agency or political subdivision had been required to pay state motor fuel and state special fuel taxes.

Sec. 17. Section three hundred twenty-four point thirty-three (324.33), subsections two (2), three (3), four (4) and five (5), Code 1977, are amended to read as follows:

2. "Use" means the receipt, delivery or placing of special fuels by a special fuel user into a supply fuel tank of a motor vehicle while the vehicle is in this state or delivered into a motor vehicle special fuel holding tank.

3. "Special fuel dealer" means any person in the business of handling special fuel who delivers any part thereof into a fuel supply tank of any motor vehicle or delivers special fuel to a motor vehicle special fuel holding tank.

4. "Special fuel user" means the owner or other person responsible for the operation of a motor vehicle at the time special fuel is placed in a fuel supply tank thereof while the vehicle is in this state or the owner of a motor vehicle special fuel holding tank into which special fuel is delivered to be used for highway use only and upon which special fuel the special fuel tax is paid upon receipt.

5. "Licensed special fuel user" means and includes any person licensed by the department who dispenses special fuel, upon which the special fuel tax has not been previously paid, for highway use from bulk sources owned and controlled by ~~himself~~ the person into the fuel supply tank of a motor vehicle or commercial motor vehicle owned or controlled by ~~himself~~ the person. A licensed special fuel user shall make bulk purchases of special fuel for highway use only from a licensed special fuel distributor.

Sec. 18. Section three hundred twenty-four point thirty-three (324.33), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. 7. "Motor vehicle special fuel holding tank" means a tank with a capacity of not more than five hundred gallons owned by a special fuel user in which special fuel is contained for use by the special fuel user only in

a motor vehicle for highway use.

Sec. 19. Section three hundred twenty-four point thirty-four (324.34), unnumbered paragraphs one (1), two (2) and three (3), Code 1977, is amended to read as follows:

For the privilege of operating motor vehicles in this state, there is hereby levied and imposed an excise tax on the use (as defined herein) of special fuel in any motor vehicle. The rate of tax on special (diesel engine) fuel shall be ~~eight~~ ten cents per gallon beginning July 1, 1978, and shall be eleven and one-half cents per gallon beginning July 1, 1979. On all other special fuel the per gallon rate shall be the same as the motor fuel tax. The tax, with respect to all special fuel delivered by a special fuel dealer for use in this state as defined by section 324.33, shall attach at the time of the delivery and shall be collected by the dealer from the special fuel user and shall be paid over to the department of revenue as hereinafter provided. The tax, with respect to special fuel acquired by a special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle or delivery into a motor vehicle special fuel holding tank by a special fuel dealer or distributor, shall attach at the time of the use (as herein defined) of the fuel and shall be paid over to the department of revenue by the user as hereinafter provided.

All deliveries by distributors of special fuel to be used for highway use, except deliveries into a motor vehicle special fuel holding tank, must be made into storage connected to a sealed meter pump as licensed in said section. Special fuel delivered to a motor vehicle special fuel holding tank of a special fuel user by a distributor shall be metered upon delivery and the special fuel tax shall be collected by the distributor and paid over to the department of revenue.

The department of revenue shall make reasonable rules and regulations governing the dispensing of special fuel ~~at-retail service-stations-and-licensed-special-fuel-user-locations~~ and by distributors, special fuel dealers and licensed special fuel users. The department shall require that all pumps located at ~~said-stations~~ special fuel dealer locations and licensed special fuel user locations through which fuel oil can be dispensed, be metered, inspected, tested for accuracy, sealed and licensed by the state department of agriculture, and that special fuel delivered into the fuel supply tank of any motor vehicle or into a motor vehicle special fuel holding tank shall be dispensed only through these tested metered pumps.

Sec. 20. Section three hundred twenty-four point thirty-five (324.35), Code 1977, is amended to read as follows:

324.35 EXEMPTIONS. No tax is imposed under this division on special fuel used by the United States or any of its agencies or instrumentalities, but the tax on special fuel used or delivered into fuel supply tanks of motor vehicles by any post exchange or concessionaire on any federal reservation in this state, to the extent permitted by federal law, shall be collected by the post exchange or concessionaire and paid to the department of revenue.

No tax is imposed under this division on special fuel used by the state of Iowa or any of its agencies, ~~but this exemption shall not apply to~~ or used by political subdivisions of this state.

Sec. 21. Section three hundred twenty-four point seventy-nine (324.79), unnumbered paragraphs one (1) and two (2), Code 1977, are amended to read as follows:

The net proceeds of ~~seven-and-one-half-cents-per-gallon~~ the excise tax on the diesel special fuel and ~~six-and-one-half-cents-per-gallon~~ the excise tax on motor fuel and other special fuel, and penalties collected under the provision of this chapter, shall be credited to the road use tax fund.

~~The net proceeds of one-half-cent-per-gallon excise tax on diesel special fuel and one-half-cent-per-gallon excise tax on motor fuel and other special fuel collected under the provisions of this chapter shall be credited by the treasurer of state to the primary road fund.~~

Sec. 22. Section three hundred twenty-seven G point twenty-nine (327G.29), Code 1977, is amended to read as follows:

327G.29 GRADE CROSSING SURFACE REPAIR FUND. There is established a highway railroad grade crossing surface repair fund in the office of the treasurer of state. The department may credit to this fund:

1. Moneys appropriated to the department from the general fund of the state.
2. Moneys appropriated to the department from the road use tax fund or the primary road fund.
3. Available federal funds.
4. Moneys acquired by the department from any gift, grant, or contributions from any source.

~~The total amount of funds, except funds acquired pursuant to subsections 3 and 4, which shall be credited to the highway railroad grade crossing surface fund shall not exceed two hundred-fifty-thousand-dollars-in-any-one-year~~ Notwithstanding

the provisions of section eight point thirty-three (8.33) of the Code unencumbered funds remaining in the highway railroad grade crossing surface repair fund at the close of each fiscal year ending on June thirtieth shall revert to the road use tax fund.

Sec. 23. It is the intent of the general assembly that effective July 1, 1979 the functional reclassification of roads shall be implemented as provided by law.

Sec. 24. Sections three hundred twelve point nine (312.9) and three hundred twelve point ten (312.10), three hundred thirteen point fifty-eight (313.58), three hundred nine point eighty-three (309.83) and chapter three hundred eighteen (318), Code 1977, are repealed.

Sec. 25. It is the intent of the general assembly that the state department of transportation, in cooperation with the standing committee on ways and means and the standing committee on transportation of the general assembly, study methods of reflecting local revenue efforts for maintenance, repair and construction of roads in the distribution of the secondary road fund of the counties, the farm-to-market road fund and the street construction fund of the cities. The findings of this study shall be presented to the Sixty-eighth General Assembly prior to February 1, 1979.

It is the further intent of the general assembly that upon approval by the Iowa general assembly, of those findings, the findings shall be considered in reassessing the distribution of road use tax fund allocations among counties within the funds allocated to the secondary road fund of the counties and in reassessing the allocations among cities within the funds allocated to the street construction fund of the cities for road construction.

Sec. 26. Notwithstanding the provisions of chapters three hundred twenty-five (325), three hundred twenty-seven (327), three hundred twenty-seven A (327A) and three hundred twenty-seven D (327D) of the Code, the transportation regulation board shall approve any rate increase application filed by a truck operator, motor carrier or liquid carrier to compensate for increased costs which result from the increase in motor fuel and special fuel taxes as provided in this Act.

Approved June 27, 1978

CHAPTER 1109
MOTOR FUEL AND SPECIAL FUEL INVENTORY

H. F. 2463

AN ACT relating to the inventory taking of motor fuel and special fuel gallonage to be sold or dispensed at tax rates established by House File four hundred ninety-one (491), Acts of the Sixty-seventh General Assembly, 1978 session.

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

Section 1. If House File four hundred ninety-one (491), as enacted by the Sixty-seventh General Assembly, 1978 Session, becomes law, a licensed distributor, dealer, user, or unlicensed retailer having title on July 1, 1978 to motor fuel or special fuel upon which the excise tax has been paid prior to such date shall take an inventory of gallonage on hand as of the close of business June 30, 1978. All inventoried gallonage sold or dispersed on and after July 1, 1978 shall be taxed at rates established by House File four hundred ninety-one (491), Acts of the Sixty-seventh General Assembly, 1978 Session. The distributor, dealer, user or retailer shall pay to the treasurer of state a one and one-half cent per gallon tax on motor fuel and a two cent per gallon tax on special fuel on the gallonage on hand as of June 30, 1978, such payments representing the margin between the tax paid on the gallonage prior to July 1, 1978 by the distributor, dealer, user or retailer and the tax which shall be levied on sales to the ultimate consumer on and after July 1, 1978. All those falling within the purview of this legislation shall report gallonage on hand on forms provided by the department of revenue and remit the tax due by July 10, 1978. The department of revenue shall adopt rules pursuant to chapter seventeen A (17A) of the Code as are necessary to carry out the provisions of this section.

Sec. 2. If House File four hundred ninety-one (491), as enacted by the Sixty-seventh General Assembly, 1978 Session, becomes law, a licensed distributor, dealer, user or unlicensed retailer having title on July 1, 1979 to motor fuel or special fuel upon which the excise tax has been paid prior to such date shall take an inventory of gallonage on hand as of the close of business June 30, 1979. All inventoried gallonage sold or dispersed on or after July 1, 1979 shall be taxed at rates established by House File four hundred ninety-one (491), Acts of the Sixty-seventh General Assembly,

1978 Session. The distributor, dealer, user or retailer shall pay to the treasurer of state a one and one-half cent per gallon tax on motor fuel and special fuel on the gallonage on hand as of June 30, 1979, such payments representing the margin between the tax paid on the gallonage prior to July 1, 1979 by the distributor, dealer, user or retailer and the tax which shall be levied on sales to the ultimate consumer on or after July 1, 1979. All those falling within the purview of this legislation shall report gallonage on hand on forms provided by the department of revenue and remit the tax due by July 10, 1979. The department of revenue shall adopt rules pursuant to chapter seventeen A (17A) of the Code as are necessary to carry out the provisions of this section.

Sec. 3. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Globe-Gazette, a newspaper published in Mason City, Iowa, and in the Marshalltown Times-Republican, a newspaper published in Marshalltown, Iowa.

Approved June 20, 1978

I hereby certify that the foregoing Act, House File 2463, was published in the Globe-Gazette, Mason City, Iowa on June 26, 1978, and in the Marshalltown Times-Republican, Marshalltown, Iowa on June 23, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1110

RAILROADS

H. F. 2216

AN ACT relating to railroad laws providing for schedule penalties for violations of railroad laws, for the authority for the state department of transportation to evaluate railroad trackage, for new procedures for changing railroad agency service, for reduced rail rates for transportation of certain goods, for operation requirements for lights on track power cars, for utilization of the grade crossing safety fund for the installation of flasher lights or gate arm signals, and for the repeal of certain obsolete or preempted sections of the railroad law.

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

Section 1. Section three hundred seven point twenty-six (307.26), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Identify those segments of railroad trackage which, if improved, may provide increased transportation services for the citizens of this state. The department shall develop and implement programs to encourage the improvement of rail freight services on such railroad trackage.

Sec. 2. Section three hundred twenty-seven C point four (327C.4), Code 1977, is amended to read as follows:

327C.4 INSPECTION--NOTICE TO REPAIR. The department shall inspect the condition of each railroad, its rail facilities, equipment, rolling stock, operations and pertinent records at reasonable times and in a reasonable manner to insure proper operations. Employees of the department shall have proper identification which shall be displayed upon request. If found unsafe, the department shall immediately notify the railroad corporation whose duty it is to put the same in repair, which shall be done by it within such time as the department shall fix. If any corporation fails to perform this duty the department may forbid and prevent it from running trains over the defective portion while unsafe or may regulate the speed and operation of trains moving over the defective portion of the railroad. If the railroad corporation violates any requirement provided by the department, the railroad corporation shall be subject to a ~~fine of not more than one hundred dollars~~ schedule two penalty for each day the repairs have not been made from the date the department

set for repairs to be completed. The court may consider the willingness and ability of the railroad corporation to cooperate in removing the safety hazard. ~~Moneys received from the assessment of any fine shall be credited to the rail assistance fund.~~ Notwithstanding the provisions of chapter twenty-five A (25A) of the Code, the state shall not be held liable for damages for any act or failure to act under the provisions of this section.

Sec. 3. Chapter three hundred twenty-seven C (327C), Code 1977, is amended by adding the following new section as section three hundred twenty-seven C point five (327C.5):

NEW SECTION. SCHEDULE VIOLATIONS--PENALTIES. Violations of the provisions of chapters three hundred twenty-seven C (327C) through three hundred twenty-seven G (327G) of the Code, shall be punished as a schedule one penalty unless otherwise indicated. Violations of a continuing nature shall constitute a separate offense for each violation unless otherwise provided. The schedule of violations shall be:

1. "Schedule one" means a penalty of one hundred dollars per violation.
2. "Schedule two" means a penalty of not less than one hundred dollars nor more than five hundred dollars per violation.
3. "Schedule three" means a penalty of not less than five hundred dollars nor more than one thousand dollars per violation.
4. "Schedule four" means a penalty of not less than five hundred dollars nor more than five thousand dollars per violation.
5. "Schedule five" means a penalty of not less than five hundred dollars nor more than five thousand dollars for the first violation and not less than five thousand dollars nor more than ten thousand dollars for each subsequent violation.

Sec. 4. Section three hundred twenty-seven C point six (327C.6), Code 1977, is amended to read as follows:

327C.6 CHANGES IN OPERATION AND IMPROVEMENTS. When, in the judgment of the department, any railroad corporation fails in any respect to comply with the ~~terms-of-its-charter-or articles-of-incorporation-or-the~~ laws of the state; or if any railroad corporation fails to operate its railroad and business in a reasonable and expedient manner which is safe and convenient to the public, the department may order such changes as it finds to be proper and shall serve an order upon such corporation. Nothing in this section or section

327C.4 shall be construed as to nullify responsibility or liability for damage to person or property by any railroad corporation.

Sec. 5. Section three hundred twenty-seven C point seven (327C.7), Code 1977, is amended to read as follows:

327C.7 ABANDONING STATION. It shall be unlawful for any railroad corporation owning or operating any railroad ~~in-whete~~ ~~er-in-part~~ in this state, ~~to-abandon-any-station-on-its-line~~ ~~of-railroad-within-this-state, or-to-remove-the-depot, or~~ to withdraw agency service, unless it shall first have filed notice of its intention with the department and otherwise complied with the provisions of this section and sections 327C.8 and 327C.9. Upon the receipt of such notice the department shall specify a notice be published and the railroad corporation shall, at its own expense, cause such notice to be published at least fifteen days in advance of the action to ~~abanden-er~~ discontinue such ~~station-er~~ agency, ~~er-remove~~ ~~such-depot,~~ and shall file proof of publication with the department. The notice shall be in such form as prescribed by the department and shall be published in a newspaper published in the county in which the station is located. An alternative notice procedure giving comparable public notice by registered mail to affected shippers may be prescribed by the department according to rules promulgated under chapter 17A.

Sec. 6. Section three hundred twenty-seven C point eight (327C.8), Code 1977, is amended to read as follows:

327C.8 OBJECTIONS--HEARING. Any person directly affected by the proposed ~~abandonment-er~~ discontinuance of any ~~station~~ ~~er~~ agency, ~~er-removal-of-any-depot,~~ may file written objections with the department, stating the grounds for such objections, within fifteen days from the time of the publication of the notice as provided in section 327C.7. Upon the filing of such objections the board shall fix the time and place for a hearing, which shall be held within sixty days from the filing of such objections. Written notice of the time and place of such hearing shall be mailed by the board to the railroad corporation and the person filing objections at least ten days prior to the date fixed for such hearing.

Sec. 7. Section three hundred twenty-seven C point nine (327C.9), Code 1977, is amended to read as follows:

327C.9 ORDER OF BOARD. Upon said hearing the board may prohibit the ~~abandonment-er~~ discontinuance of such ~~station~~ ~~er~~ agency, ~~er-the-removal-of-the-depot,~~ or may make such other

order as is warranted by the evidence produced at such hearing. But if no objections are filed the board may make an order permitting the railroad corporation to proceed with such ~~abandonment-or discontinuance,-or-removal-of-the-depot.~~

Sec. 8. Section three hundred twenty-seven C point thirteen (327C.13), Code 1977 Supplement, is amended to read as follows:

327C.13 HINDERING OR OBSTRUCTING DEPARTMENT. Any person who shall willfully obstruct the department or board in the performance of their duties, or who shall refuse to give any information within that person's possession that may be required by the department or board within the line of their duty, shall, upon conviction, be guilty of a simple misdemeanor subject to a schedule two penalty.

Sec. 9. Section three hundred twenty-seven C point seventeen (327C.17), Code 1977, is amended to read as follows:

327C.17 WHEN ORDER EFFECTIVE--VIOLATION. ~~All rules and orders affecting public rights, made by the department or board, as now or may hereafter be authorized for the direction and observance of railroads in this state, shall be in full force and effect from and after the date fixed by the department or board.~~ If any railroad fails, neglects, or refuses to comply with any rule or order made by the department or board within the time specified, it shall, for each day of such failure, pay a penalty of one hundred dollars be subject to a schedule two penalty. ~~Such moneys shall be credited to the railroad assistance fund.~~

Sec. 10. Section three hundred twenty-seven C point forty-three (327C.43), Code 1977, is amended to read as follows:

327C.43 VIOLATIONS. Any corporation, company, or individual owning or operating a railway within the state, neglecting or refusing to make the required reports by the date fixed ~~or fixed~~ by rule of the department, shall, upon conviction, be subject to a schedule one penalty of one hundred dollars for each and every day of delay in making the same after the date thus fixed.

Sec. 11. Section three hundred twenty-seven D point seventeen (327D.17), Code 1977, is amended to read as follows:

327D.17 CRIMINAL LIABILITY. Except as otherwise specially provided for in this chapter, and unless relieved from the consequences of a violation of the law as provided herein, any common carrier subject to the provisions hereof, or, when such common carrier is a corporation, any director or officer

thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party shall willfully do or cause to be done, or shall willfully suffer or permit to be done any act, matter, or thing in this chapter prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this chapter required to be done, or shall cause or willingly suffer or permit any act, matter, or thing, so directed or required by the provisions of this chapter to be done, not to be so done; or shall aid or abet any such omission or failure, or shall be guilty of any infraction of the provisions of this chapter, or shall aid or abet therein, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be ~~finned-not-more-than-five-thousand-ner less-than-five-hundred-dollars-for-each-offense~~ subject to a schedule four penalty.

Sec. 12. Section three hundred twenty-seven D point twenty-seven (327D.27), Code 1977 Supplement, is amended to read as follows:

327D.27 PENALTY FOR DISCRIMINATION. Any corporation making any unjust discrimination as to freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freight, shall, upon conviction, be guilty-of-an-aggravated-misdemeanor subject to a schedule four penalty; or shall be subject to the liability prescribed in section 327D.28, to be recovered as therein provided.

Sec. 13. Section three hundred twenty-seven D point twenty-eight (327D.28), Code 1977 Supplement, is amended to read as follows:

327D.28 CIVIL FORFEITURE. Any railway corporation making any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railway cars, or in receiving, handling, or delivering freight, shall be guilty-of-a-fraudulent-practice, upon conviction, forfeit and pay to the state an amount within the limits of a schedule five penalty. Money collected shall be deposited in the general fund of the state.

Sec. 14. Section three hundred twenty-seven D point twenty-nine (327D.29), Code 1977, is amended to read as follows:

327D.29 FREE OR REDUCED FREIGHT RATES PERMITTED. Nothing in this chapter shall apply to free or reduced rates for the transportation, storage or handling of:

1. Property for the United States, this state, or ~~municipal-governments~~ political subdivisions of this state.
2. Materials to be used by public authorities in constructing or maintaining public ~~highways-outside-of-the-corporate limits-of-cities~~ facilities.
3. Property for charitable purposes.
4. Property for exhibition at fairs or expositions.
5. Private property or goods for the family use of such employees as are entitled to free passenger transportation.
6. Private property in less than carload lots.
7. Coal.
8. Products transported to be recycled.

Sec. 15. Section three hundred twenty-seven D point forty-five (327D.45), Code 1977, is amended to read as follows:

327D.45 SCHEDULES OF JOINT RATES. The ~~department-shall make-and-publish~~ board may order a schedule of joint through railway rates for such traffic and on such routes as in its judgment the fair and reasonable conduct of business requires ~~shall-be-done-by-carriage-over-two-or-more-lines-of-railway, and-will-promote-the-interests-of-the-people-of-this-state.~~

Sec. 16. Section three hundred twenty-seven D point one hundred thirty-two (327D.132), Code 1977 Supplement, is amended to read as follows:

327D.132 VIOLATION--PENALTY. Any common carrier operating in this state violating any of the provisions of sections 327D.127 to 327D.131 by neglecting or refusing to weigh cars or to furnish certificates of weights as therein provided shall, upon conviction, be guilty-of-a-simple-misdemeanor subject to a schedule one penalty.

Sec. 17. Section three hundred twenty-seven F point fourteen (327F.14), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

327F.14 LIGHTS ON TRACK POWER CARS. Any person, firm, or corporation owning or operating a track power car in this state shall insure that such track power car is equipped with an electric headlight that will enable the operator to see an unlighted obstruction on the track at a distance of three hundred feet in clear weather. A track power car shall also be equipped with two rear electric red lights of such construction to be plainly visible during hours of darkness on a clear night at a distance of three hundred feet.

Such lights shall be in operation when the track power car is being operated.

These lighting requirements shall not be construed to penalize any person, firm or corporation if it can be shown that such lighting equipment was present in good and sufficient working order at the beginning of a trip and became disabled during the trip.

A violation of this section shall, upon conviction, be subject to a schedule one penalty.

Sec. 18. Section three hundred twenty-seven F point twenty (327F.20), Code 1977 Supplement, is amended to read as follows:

327F.20 VIOLATIONS. Any common carrier as provided in section 327F.18 violating any of the provisions of section 327F.19 shall, upon conviction, be ~~deemed-guilty-of-a-simple misdemeanor~~ subject to a schedule two penalty.

Sec. 19. Section three hundred twenty-seven F point twenty-eight (327F.28), Code 1977 Supplement, is amended to read as follows:

327F.28 VIOLATIONS. Any failure to comply with the provisions of section 327F.27 shall, upon conviction, be ~~deemed a-simple-misdemeanor~~ subject to a schedule one penalty.

Sec. 20. Section three hundred twenty-seven F point thirty-five (327F.35), Code 1977 Supplement, is amended to read as follows:

327F.35 PENALTY. Any railroad corporation found guilty of violating the provisions of section 327F.34 shall, upon conviction, be ~~guilty-of-a-simple-misdemeanor~~ subject to a schedule one penalty.

Sec. 21. Section three hundred twenty-seven F point thirty-six (327F.36), Code 1977 Supplement, is amended to read as follows:

327F.36 SCREEN EXHAUST FIRE CONTROLS. No locomotive or other rolling stock shall be operated unless it is equipped with proper deflector and screen exhaust fire controls and uses adequate devices to prevent the escape of blowing or burning materials or substances and is maintained in good working order to protect against the start and spread of fires along the right of way. A violation of this section shall, upon conviction, be ~~a-simple-misdemeanor~~ subject to a schedule one penalty. The railroad corporation, and any ~~officers~~ officer, agent, lessee or independent contractor found guilty of a violation of this section shall, upon conviction, be ~~guilty-of-a-simple-misdemeanor~~ subject to a schedule one penalty. In the event a right of way fire can be attributed to faulty screen exhaust fire control equipment, a local fire department may collect reasonable hourly charges, not to

exceed a total of two hundred fifty (250) dollars for each call from the railroad corporation.

Sec. 22. Section three hundred twenty-seven G point nine (327G.9), Code 1977 Supplement, is amended to read as follows:

327G.9 FAILURE TO FENCE--GENERAL PENALTY. If the railroad corporation refuses or neglects to comply with any provision of this chapter relating to the fencing of the tracts, such railroad corporation shall, upon conviction, be ~~guilty of a simple misdemeanor~~ subject to a schedule two penalty and every thirty days' continuance of such refusal or neglect shall constitute a separate and distinct offense.

Sec. 23. Section three hundred twenty-seven G point fourteen (327G.14), Code 1977 Supplement, is amended to read as follows:

327G.14 VIOLATIONS. Any officer or employee of any railway corporation violating any of the provisions of section 327G.13 shall, upon conviction, be ~~guilty of a simple misdemeanor~~ subject to a schedule two penalty.

Sec. 24. Section three hundred twenty-seven G point fifteen (327G.15), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-eight (48), section thirty-three (33), is amended to read as follows:

327G.15 RAILWAY AND HIGHWAY CROSSING AT GRADE. Wherever a railway track crosses or shall hereafter cross a highway, street or alley, the railway corporation owning such track and the department, in the case of primary highways, the board of supervisors of the county in which such crossing is located, in the case of secondary roads, or the council of the city, in the case of streets and alleys located within a city, may agree upon the location, manner, vacation, physical structure, characteristics and maintenance of the crossing and flasher lights or gate arm signals at the crossing and allocation of costs thereof. The department shall become a party to the agreement if grade crossing safety funds are to be used. Up to seventy-five percent of the maintenance cost of flasher lights or gate arm signals at the crossing and an unlimited portion of the cost of installing flasher lights or gate arm signals at the crossing may be paid from the grade crossing safety fund.

Notwithstanding other provisions of this section, maintenance of flasher lights or gate signals installed or ordered to be installed before July 1, 1973, shall be assumed wholly by the railroad corporation.

Payments from the grade crossing safety fund shall be made

by the treasurer of state upon certification by the department that the terms of the agreement have been followed.

The department shall promulgate rules according to chapter 17A for processing claims to the grade crossing safety funds.

The provisions of this section shall not apply to the repair of the grade crossing surface.

Sec. 25. Sections three hundred twenty-seven C point eleven (327C.11), three hundred twenty-seven C point thirty-five (327C.35), three hundred twenty-seven C point thirty-nine (327C.39), three hundred twenty-seven F point six (327F.6), three hundred twenty-seven F point seven (327F.7), three hundred twenty-seven F point ten (327F.10), three hundred twenty-seven F point eleven (327F.11), three hundred twenty-seven F point twelve (327F.12), three hundred twenty-seven F point fifteen (327F.15), three hundred twenty-seven F point seventeen (327F.17), three hundred twenty-seven G point twenty-four (327G.24), three hundred twenty-seven G point twenty-five (327G.25), three hundred twenty-seven G point twenty-six (327G.26), three hundred twenty-seven G point twenty-seven (327G.27), three hundred twenty-seven H point one (327H.1), three hundred twenty-seven H point two (327H.2), three hundred twenty-seven H point three (327H.3), three hundred twenty-seven H point four (327H.4), three hundred twenty-seven H point five (327H.5), three hundred twenty-seven H point six (327H.6), three hundred twenty-seven H point seven (327H.7), three hundred twenty-seven H point eight (327H.8), three hundred twenty-seven H point nine (327H.9), three hundred twenty-seven H point ten (327H.10), three hundred twenty-seven H point eleven (327H.11), three hundred twenty-seven H point twelve (327H.12), three hundred twenty-seven H point thirteen (327H.13), three hundred twenty-seven H point fourteen (327H.14), three hundred twenty-seven H point fifteen (327H.15), three hundred twenty-seven H point sixteen (327H.16), three hundred twenty-seven H point seventeen (327H.17), and three hundred twenty-seven H point nineteen (327H.19), Code 1977, are repealed.

Sec. 26. Sections three hundred twenty-seven F point nine (327F.9), three hundred twenty-seven F point thirteen (327F.13), and three hundred twenty-seven F point sixteen (327F.16), Code 1977 Supplement, are repealed.

Approved June 26, 1978

CHAPTER 1111
FREEWAY LIGHTING SYSTEMS

H. F. 2296

AN ACT relating to the payment for the operation and maintenance of freeway lighting systems in cities.

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

Section 1. Section three hundred thirteen point four (313.4), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Such fund is appropriated and shall be used by the department to provide energy and for the operation and maintenance of those primary road freeway lighting systems within the corporate boundaries of cities.

The costs of serving freeway lighting for each utility providing the service shall be determined by the Iowa commerce commission, and rates for such service shall be no higher than necessary to recover these costs. Funds received under the provisions of this Act shall be used solely for the operation and maintenance of a freeway lighting system.

Approved June 14, 1978

CHAPTER 1112
SNOWMOBILES

H. F. 544

AN ACT relating to snowmobiles.

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

Section 1. Section three hundred twenty-one G point two (321G.2), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The director of transportation may adopt rules not inconsistent herewith regulating the use of snowmobiles on streets and highways, ~~except that cities.~~ Cities may regulate their use on designate streets under the jurisdiction of cities within their respective corporate limits which may be used for snowmobiling.

Sec. 2. Section three hundred twenty-one G point four

(321G.4), Code 1977, is amended to read as follows:

321G.4 COUNTY RECORDER. The owner of each snowmobile required to be numbered shall register it every ~~year~~ two years with the county recorder of the county in which the owner resides or, if the owner is a nonresident, he shall register it in the county in which such snowmobile is principally used. The commission shall have supervisory responsibility over the registration of all snowmobiles and shall provide each county recorder with registration forms and certificates and shall allocate identification numbers to each county.

The owner of such snowmobile shall file an application for registration with the appropriate county recorder on forms provided by the commission. The application shall be completed and signed by the owner of the snowmobile and shall be accompanied by a fee of ~~six~~ twelve dollars and a writing fee of fifty cents. Proof of payment of Iowa sales or use tax must accompany all applications for registration. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter the same upon his records and shall issue to the applicant a pocket-size registration certificate. The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to such snowmobile and the name and address of the owner. The registration certificate shall be carried either in the snowmobile or on the person of the operator of such machine when in use. The operator of a snowmobile shall exhibit the registration certificate to any peace officer upon request or to the owner or operator of another snowmobile or to the owner of any other personal or real property when involved in a collision or accident of any nature with a snowmobile or the property of another person.

Sec. 3. Section three hundred twenty-one G point six (321G.6), unnumbered paragraphs one (1), two (2) and three (3), Code 1977, are amended to read as follows:

Every registration certificate and number issued shall expire at midnight December ~~31~~ thirty-first, and every two years thereafter unless sooner terminated or discontinued in accordance with the provisions of this chapter. After the first day of September each even-numbered year, any unregistered snowmobile and renewals of registration may be so registered for the subsequent ~~year~~ biennium beginning January ~~4~~ first. Any snowmobile registered between January

first and September first of even-numbered years shall be registered for a fee of six dollars for the remainder of the registration period.

After the first day of September in even-numbered years any unregistered snowmobile may be registered for the remainder of the current registration period and for the subsequent registration period in one transaction. The fee shall be ~~three~~ six dollars for the remainder of the current period, in addition to the registration fee of ~~six~~ twelve dollars for the subsequent ~~year~~ biennium beginning January ~~+~~ first, and a writing fee of fifty cents. Registration certificates and numbers may be renewed upon application of the owner in the same manner as provided for in securing the original registration. The snowmobile registration fee shall be in lieu of personal property tax for ~~the-calendar~~ each year of said registration.

If the application for registration for the subsequent ~~year~~ biennium is not made before January ~~+~~ first of each even-numbered year, the applicant shall be charged a penalty of one dollar for each six months' delinquency, or any portion thereof.

Sec. 4. Section three hundred twenty-one G point nine (321G.9), subsection four (4), paragraph b, Code 1977, is amended to read as follows:

b. On that portion of county roadways that have not been plowed during the snow season ~~and~~ or not maintained or utilized for the operation of conventional two-wheel drive motor vehicles.

Sec. 5. Section three hundred twenty-one G point nine (321G.9), subsection six (6), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. Any person twelve through fifteen years of age and possessing a valid safety certificate must be accompanied by and under the direct supervision of a responsible person of at least eighteen years of age who is experienced in snowmobile operation and who possesses a valid operator's or chauffeur's license, instruction permit, restricted license or temporary permit issued under chapter three hundred twenty-one (321) of the Code or a safety certificate issued under this chapter.

Sec. 6. Section three hundred twenty-one G point nine (321G.9), subsection seven (7), Code 1977, is amended to read as follows:

7. A snowmobile shall not be operated within the right

of way of any ~~publie~~ primary highway between the hours of sunset and sunrise except on the right-hand side of such right of way and in the same direction as the motor vehicular traffic on the nearest lane of traveled portion of such right of way.

Sec. 7. Section three hundred twenty-one G point twenty (321G.20), Code 1977, is amended to read as follows:

321G.20 MINORS UNDER TWELVE. No owner or operator of any snowmobile ~~having-an-engine-rating-of-three-hundred-cubic-centimeters-or-more~~ shall permit any person under twelve years of age to operate nor shall any person less than twelve years of age operate, the snowmobile except when accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and who possesses a valid operator's or chauffeur's license, instruction permit, restricted license, or temporary permit issued under chapter three hundred twenty-one (321) of the Code or a safety certificate issued under this chapter.

Sec. 8. Section three hundred twenty-one G point twenty-four (321G.24), subsection one (1), Code 1977, is amended to read as follows:

1. Effective July 1, ~~1975~~ 1977, no person who is ~~twelve years-of-age-or-more-and-less-than-sixteen-years-of-age~~ born after July 1, 1965 shall operate a snowmobile in this state without obtaining a valid safety certificate issued by the commission and having such certificate in his possession, or unless he is accompanied on the same machine by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and possesses a valid operator's or chauffeur's license, instruction permit, restricted license or temporary permit issued under chapter three hundred twenty-one (321) of the Code or a safety certificate issued under this chapter.

Sec. 9. Section three hundred twenty-one G point twenty-four (321G.24), subsection two (2), Code 1977, is amended to read as follows:

2. Upon application and payment of a fee of ~~two~~ three dollars, a qualified applicant shall be issued a safety certificate which shall be valid until such person reaches his seventeenth birthday unless the certificate is suspended or revoked for a violation of a provision of this chapter or the rules of the commission or the director of transportation before that date. The application shall be made on forms issued by the commission and shall contain such information as the commission may reasonably require.

Sec. 10. Sections two (2) and three (3) of this Act are effective September 1, 1979.

Sec. 11. Sections one (1), four (4) through seven (7), and nine (9) of this Act are effective January 1, 1978.

Approved June 26, 1978

CHAPTER 1113

MOTOR VEHICLE PROVISIONS

S. F. 2187

AN ACT relating to transportation providing for licensing authorized vehicle recyclers, modification of temporary drivers permit provisions, the issuance of restricted certificate of title, junking certificate and salvage certificate of title, the inspections of vehicles and component parts, requirements for perfecting state liens on motor vehicles, elimination of the listing of "occupation" on motor vehicle licenses, the prohibition of eluding or attempting to elude a marked police vehicle, appropriations for notice of suspensions and revocations, the elimination of inspection requirements for pollution control equipment and for vehicles for which the certificate of title must be surrendered, definitions for illuminated signals on official traffic control signals and the duties for stopping before yield signs, stop signs and railroad crossings, the reporting of property damage accidents, the placement of stop signs on highways, the promulgation of motor vehicle noise and exhaust requirements, the prohibitions of removing certain motor vehicle identification numbers, elimination of certain financial responsibility requirements, the movement of oversized loads of hay, straw or stover, a ten dollar fee for car lots, providing for penalties and repeal of certain sections.

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

Section 1. The Code editor, in codifying the provisions of this Act, is directed to codify sections two (2) through eight (8) of this Act as a new chapter.

Sec. 2. NEW SECTION. ADMINISTRATION. The administration of this chapter shall be vested in the director of the state department of transportation. The department may employ such employees as are necessary for the administration of this chapter, within applicable budget limitations.

Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter and unless a different meaning appears from the context:

1. "Person" includes any individual, firm, corporation, copartnership, joint adventure, or association, and the plural

as well as the singular number.

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

3. "Selling" includes bartering, exchanging, or otherwise dealing in.

4. "Vehicle" means any vehicle as defined in chapter three hundred twenty-one (321) of the Code.

5. "Vehicle rebuilder" means a person engaged in the business of rebuilding or restoring to operating condition vehicles subject to registration under chapter three hundred twenty-one (321) of the Code, which have been damaged or wrecked.

6. "Used vehicle parts dealer" means a person engaged in the business of selling bodies, parts of bodies, frames or component parts of used vehicles subject to registration under chapter three hundred twenty-one (321) of the Code.

7. "Vehicle salvager" means a person engaged in the business of scrapping vehicles, dismantling or storing wrecked or damaged vehicles or selling reusable parts of vehicles or storing vehicles not currently registered which vehicles are subject to registration under chapter three hundred twenty-one (321) of the Code.

8. "Authorized vehicle recycler" means a person licensed to operate as a vehicle rebuilder, used vehicle parts dealer or vehicle salvager.

9. "Wrecked or salvage vehicle" means a damaged vehicle for which the cost of repair exceeds fifty percent of the fair market value of the vehicle before it became damaged.

10. "Extension" means a place of business of an authorized vehicle recycler other than the principal place of business within the county of the principal place of business.

Sec. 4. NEW SECTION. PROHIBITIONS. Except for educational institutions, people licensed as new or used vehicle dealers under chapter three hundred twenty-two (322) of the Code, people engaged in a hobby not for profit, people engaged in the business of purchasing bodies, parts of bodies, frames or component parts of vehicles only for sale as scrap metal or a person licensed under the provisions of this chapter as an authorized vehicle recycler, a person in this state shall not engage in the business of:

1. Selling used bodies, parts of bodies, frames or component parts of more than six used vehicles subject to registration under chapter three hundred twenty-one (321) of the Code in a calendar year; or

2. Wrecking or dismantling in a calendar year more than six vehicles or the parts of more than six vehicles subject to registration under chapter three hundred twenty-one (321) of the Code for resale; or

3. Rebuilding or restoring for sale six or more wrecked or salvage vehicles subject to registration under chapter three hundred twenty-one (321) of the Code in a calendar year; or

4. Storing vehicles not currently registered or storing damaged vehicles except where such storing of damaged vehicles is incidental to the primary purpose of the repair of motor vehicles for others, scrapping, disposing, salvaging or recycling more than six vehicles or parts of more than six vehicles subject to registration under chapter three hundred twenty-one (321) of the Code in a calendar year.

Sec. 5. NEW SECTION. LICENSE APPLICATION AND FEES.

1. Upon application and payment of a thirty-five dollar fee, a person may apply for a license to operate as an authorized vehicle recycler to engage in the business as one or more of the following:

- a. A vehicle rebuilder; or
- b. A used vehicle parts dealer; or
- c. A vehicle salvager.

2. Application for a license as an authorized vehicle recycler shall be made to the department on forms provided by the department. The application shall be accompanied by the fee. The license shall be approved or disapproved within thirty days after application for the license. Each license shall expire, unless revoked or suspended by the department, on December thirty-first of the calendar year for which the license was granted. A separate license shall be obtained for each county in which an applicant conducts operations.

3. Each licensee shall file with the department a supplemental statement form when the licensee's principal place of business, an extension or the operation of business in the county is changed to differ from the information contained on the initial license application form within fifteen days after each operational change. The department shall notify each licensee of the approval of a change in license status. If a change in license status is approved by the department the licensee shall surrender the old license to the department together with a thirty-five dollar fee. The department shall issue a new license modified to reflect the principal place of business, each extension and the

operations of the licensee.

Sec. 6. NEW SECTION. DISPLAY OF LICENSE. A license issued under the provisions of this chapter shall specify the location of the principal place of business, each extension within the county of the principal place of business and the license shall be conspicuously displayed at the principal place of business except during periods when the license is surrendered for modifications.

Sec. 7. NEW SECTION. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. The license of a person issued under the provisions of this chapter may be denied, revoked or suspended if the department finds that the licensee has:

1. Violated any provisions of this chapter; or
2. Made any material misrepresentation to the department in connection with an application for a license, junking certificate, salvage certificate, certificate of title or registration of a vehicle; or
3. Been convicted of a fraudulent practice in connection with selling or offering for sale vehicles or parts of vehicles subject to registration under chapter three hundred twenty-one (321) of the Code; or
4. Failed to maintain an established principal place of business in the county without notification to the department; or
5. Had a license issued under the provisions of this chapter denied, suspended or revoked within the previous three years; or
6. Been convicted of violation of any of sections three hundred twenty-one point fifty-two (321.52), three hundred twenty-one point seventy-one (321.71), three hundred twenty-one point seventy-eight (321.78), three hundred twenty-one point ninety-two (321.92), three hundred twenty-one point ninety-seven (321.97), three hundred twenty-one point ninety-eight (321.98), three hundred twenty-one point ninety-nine (321.99), three hundred twenty-one point one hundred (321.100), or seven hundred thirteen point twenty-four (713.24) of the Code.

Sec. 8. NEW SECTION. FEES. All fees of whatever character accruing from the administration of this chapter shall be accounted for and paid by the department into the state treasury monthly and shall be credited to the road use tax fund.

Sec. 9. Section three hundred twenty-one point one (321.1),

Code 1977 Supplement, is amended by adding the following new subsections:

NEW SUBSECTION. "Vehicle rebuilder" means a person engaged in the business of rebuilding or restoring to operating condition vehicles subject to registration under chapter three hundred twenty-one (321) of the Code, which have been damaged or wrecked.

NEW SUBSECTION. "Used vehicle parts dealer" means a person engaged in the business of selling bodies, parts of bodies, frames or component parts of used vehicles subject to registration under chapter three hundred twenty-one (321) of the Code.

NEW SUBSECTION. "Vehicle salvager" means a person engaged in the business of scrapping vehicles, dismantling or storing wrecked or damaged vehicles or selling reusable parts of vehicles or storing vehicles not currently registered which vehicles are subject to registration under chapter three hundred twenty-one (321) of the Code.

Sec. 10. Section three hundred twenty-one point thirty (321.30), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The treasurer shall also refuse registration of any vehicle if the applicant for registration of such vehicle has failed to pay the required registration fees of any vehicle owned or previously owned when the registration fee was required to be paid by the applicant and for which vehicle the registration was suspended or revoked under the provisions of section three hundred twenty-one point one hundred one (321.101), subsection four (4), of the Code, until such fees are paid together with any accrued penalties.

Sec. 11. Section three hundred twenty-one point forty-nine (321.49), subsection one (1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section nineteen (19), is amended to read as follows:

1. ¶ Except as provided in section three hundred twenty-one point fifty-two (321.52) of the Code, if an application for transfer of registration and certificate of title is not submitted to the county treasurer of the residence of the transferee within seven days of the date of assignment or transfer of title, a penalty of five dollars shall accrue against said vehicle, and no registration card or certificate of title shall thereafter be issued until penalty is paid.

Sec. 12. Section three hundred twenty-one point fifty-one (321.51), subsection four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section twenty-two (22) is amended to read as follows:

4. The Except as provided in section three hundred twenty-one point fifty-two (321.52) of the Code, the county treasurer of the county of residence of the transferee upon receipt of the application for a new certificate of title, the appropriate fee therefor, and the affidavit as provided in subsection 2 of this section, and when satisfied as to the genuineness and regularity thereof of the application, shall issue a restricted certificate of title to the applicant but shall not issue registration plates or a registration card. A restricted certificate of title shall be red in color and shall have conspicuously imprinted thereon in bold print, in a manner prescribed by the department, the words "RESTRICTED CERTIFICATE OF TITLE--CANNOT BE REGISTERED AND OPERATED ON THE HIGHWAYS WITHOUT A VALID APPROVED CERTIFICATE OF INSPECTION EXCEPT AS PROVIDED IN SECTION three hundred twenty-one point fifty-one (321.51) of the Code." At such time as the transferee surrenders a valid approved certificate of inspection and the restricted certificate of title to the county treasurer of the county of residence, the county treasurer, upon payment of the appropriate fees, shall issue a certificate of title that is not restricted for the vehicle and shall also issue a registration card and registration plates to the applicant if the applicant is not in possession of registration plates which may be attached to the vehicle, however, if the registration fee for the vehicle has been paid for the current year, the county treasurer shall issue a registration card and registration plates to the applicant if the applicant is not in possession of registration plates which may be attached to the vehicle upon payment of an additional registration fee of five dollars. A vehicle with a restricted certificate of title shall not have a registration plate attached to the vehicle.

Sec. 13. Section three hundred twenty-one point fifty-one (321.51), subsection seven (7), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section twenty-two (22), is amended by striking the subsection.

Sec. 14. Section three hundred twenty-one point fifty-two (321.52), subsection one (1), Code 1977, as amended by

Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section twenty-three (23), is amended by striking the subsection.

Sec. 15. Section three hundred twenty-one point fifty-two (321.52), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section twenty-three (23), is amended by adding the following new subsections:

NEW SUBSECTION. The purchaser or transferee of a motor vehicle for which a certificate of title is issued which is sold for scrap or junk shall surrender the certificate of title and registration receipt to the county treasurer of the county of residence of the transferee within fifteen days after assignment of the certificate of title. The county treasurer shall issue to such person without fee a junking certificate. A junking certificate shall authorize the holder to possess, transport or transfer by endorsement the ownership of the junked vehicle. A certificate of title shall not again be issued for the vehicle subsequent to the issuance of a junking certificate. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department. The junking certificate shall be of a form to allow for the assignment of ownership of the vehicle. The junking certificate shall provide a space for the notation of the transferee of the component parts of the vehicle transferred by the owner of the vehicle.

NEW SUBSECTION. When a vehicle for which a certificate of title is issued is junked or dismantled by the owner, the owner shall detach the registration plates and surrender the plates to the county treasurer, unless the plates are properly assigned to another vehicle. The owner shall also surrender the registration receipt and certificate of title to the county treasurer. Upon surrendering the certificate of title, the county treasurer shall issue to such person, without fee, a junking certificate, which shall authorize the holder to possess, transport or transfer ownership of the junked vehicle by endorsement of the junking certificate. A certificate of title shall not again be issued for the junked vehicle for which a junking certificate is issued. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department.

NEW SUBSECTION. A vehicle rebuilder or a motor vehicle dealer licensed under chapter three hundred twenty-two (322)

of the Code, upon acquisition of a wrecked or salvage vehicle, shall surrender the certificate of title and registration receipt or manufacturer's or importer's statement of origin properly assigned, together with an application for a salvage certificate of title to the county treasurer of the county of residence of the purchaser or transferee within fourteen days after the date of assignment of the certificate of title for the wrecked or salvage motor vehicle. The provisions of this subsection shall apply only to vehicles with a fair market value of five hundred dollars or more, based on the value before the vehicle became wrecked or salvage. Upon payment of a fee of two dollars, the county treasurer shall issue a salvage certificate of title which shall be of a distinctive color and bear the words "SALVAGE CERTIFICATE OF TITLE". A salvage certificate of title may be assigned to any person. Notwithstanding any other provisions in this section a vehicle on which ownership has transferred to an insurer of such vehicle, as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of the vehicle, shall be deemed to be a wrecked or salvage vehicle and the insurer shall comply with the provisions of this subsection to obtain a salvage certificate of title within fourteen days after the date of assignment of the certificate of title of the vehicle. Any owner, except an insurer of vehicles, who transfers a wrecked or salvage vehicle with a fair market value less than five hundred dollars, based on the value before it became wrecked or salvage, shall comply with the provisions of section three hundred twenty-one point fifty-one (321.51) of the Code.

When a wrecked or salvage vehicle has been repaired or rebuilt, that person shall make application for a certificate of title to the county treasurer of the county of residence of the owner, and shall surrender the salvage certificate of title issued for the vehicle. A verification of the vehicle identification number of the vehicle shall be made by a peace officer of the state department of transportation, the department of public safety, county sheriff or police department of cities with a population exceeding five thousand persons or a person designated by the commissioner of public safety or the director. The verification shall be made on forms provided by the department and signed by the peace officer or the appropriately designated person and the verification form shall be surrendered by the owner to the

county treasurer at the time application is made for a certificate of title. Upon payment of the appropriate fees and surrender of the appropriate documents the county treasurer shall issue a certificate of title to the person making application.

For purposes of this subsection a "wrecked or salvage vehicle" means a damaged vehicle for which the cost of repair exceeds fifty percent of the fair market value of the vehicle before it became damaged.

Sec. 16. Section three hundred twenty-one point ninety-five (321.95), Code 1977, is amended to read as follows:

321.95 RIGHT OF INSPECTION. Peace officers ~~or-examiners employed-in-the-department~~ shall have the authority to inspect any vehicle or component part in possession of a ~~demolisher vehicle rebuilder, vehicle salvager, used vehicle parts dealer~~ or any person licensed under chapter three hundred twenty-two (322) of the Code, or found upon the public highway or in any public garage ~~or~~, enclosure or property in which vehicles or component parts are kept for sale, storage, hire or repair and for that purpose may enter any such public garage ~~or~~, enclosure or property. Every ~~person-doing-business as-a-demolisher~~ vehicle rebuilder, vehicle salvager, used vehicle parts dealer, or any person licensed under chapter three hundred twenty-two (322) of the Code, or a person having used engines or transmissions which are component parts for sale shall keep an accurate and complete record of all vehicles demolished and of such component parts purchased or received for resale as component parts in the course of business. These records shall contain the name and address of the person from whom each such vehicle or component part was purchased or received and the date when the purchase or receipt occurred or the junking certificate if required for the vehicle. These records shall be open for inspection by any ~~police-authority~~ peace officer at any time during normal business hours. Records required by this section shall be kept for at least three years after the transaction which they record.

Sec. 17. Section three hundred twenty-one point one hundred (321.100), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. To transfer in any manner or to offer to transfer in any manner a certificate of title, manufacturer's or importer's certificate to any vehicle on which a salvage certificate of title or junking certificate

is required under section three hundred twenty-one point fifty-two (321.52) of the Code, with knowledge or reason to believe that the certificate will be used for a vehicle other than the vehicle for which the certificate is issued.

"Transfer" for the purposes of this subsection means to sell, exchange, change possession or ownership or convey in any manner.

Sec. 18. Section three hundred twenty-one point one hundred one (321.101), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a vehicle, for which the registration has been suspended or revoked pursuant to subsection four (4) of this section, is transferred to a bona fide purchaser for value without actual knowledge of such suspension or revocation then the vehicle shall be deemed to be registered and the provisions of sections three hundred twenty-one point twenty-eight (321.28) and three hundred twenty-one point thirty (321.30), subsections four (4) and five (5), of the Code shall not be applicable to such vehicle for the failure of the previous owner to pay the required fees.

Sec. 19. Section three hundred twenty-one point one hundred thirty-one (321.131), Code 1977, is amended to read as follows:

321.131 LIEN OF FEE. All registration or other fees provided for in this chapter shall be and continue a lien against the vehicle for which said fees are payable unless otherwise provided in this section until such time as they are paid as provided by law, with any accrued penalties. The county treasurer may perfect a security interest in a vehicle for the amount of such fees by noting the lien upon the certificate of title for the vehicle as provided in section three hundred twenty-one point fifty (321.50) of the Code. If the lien is not perfected as provided in this section, the lien shall not be valid against a bona fide purchaser of the vehicle without actual notice to the purchaser.

Sec. 20. Section three hundred twenty-one point one hundred sixty-six (321.166), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section thirty-four (34), is amended by adding the following new subsection:

NEW SUBSECTION. 6. Registration plates issued a disabled veteran under the provisions of section three hundred twenty-one point one hundred five (321.105) of the Code, shall display the alphabetical characters "DV", which shall be of the same

size as the characters in the registration plate number and shall precede the registration plate number.

Sec. 21. Section three hundred twenty-one point one hundred eighty (321.180), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A permittee shall not be penalized for failing to have his or her permit in immediate possession if the permittee produces in court, within a reasonable time, an instruction permit issued to him or her and valid at the time of the permittee's arrest.

Sec. 22. Section three hundred twenty-one point one hundred eighty-one (321.181), Code 1977, is amended by striking unnumbered paragraphs two (2), three (3), four (4), and five (5).

Sec. 23. Section three hundred twenty-one point one hundred eighty-three (321.183), Code 1977, is amended to read as follows:

321.183 CONTENTS OF APPLICATION. Every said application shall state the full name, date of birth, ~~occupation~~, sex, and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has been refused, and, if so, the date of and reason for such suspension, revocation, or refusal.

Sec. 24. Section three hundred twenty-one point one hundred eighty-nine (321.189), subsection one (1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section forty-one (41), is amended to read as follows:

1. MOTOR VEHICLE LICENSE. Upon the payment of the required fee, the department shall issue to every qualifying applicant an operator's license, motorized bicycle license, or chauffeur's license, as applied for. Appearing on this license shall be a distinguishing number assigned to the licensee; the licensee's full name, date of birth, ~~occupation~~, sex, residence address; a colored photograph; a brief description of the licensee; and the usual signature of the licensee. If prior to the renewal date, a person desires to obtain an operator's or chauffeur's license in the form authorized by this section, such license may be issued as a voluntary replacement upon payment of the required fee. The number of places where licenses are available shall not be reduced

because of procedures or equipment required in placing colored photographs on licenses or permits. The department shall provide a space on every license where the licensee may affix a decal or sticker indicating that the licensee is a donor under the Uniform Anatomical Gift Act and shall provide a space where the licensee may affix a symbol indicating the presence of a medical condition. The license may contain such other information as the department may by rule require. No license shall be valid unless it bears the usual signature of the licensee. The department shall advise an applicant that he or she may request a number other than a social security number as the motor vehicle license number. The department shall not retain a positive or negative photograph of the licensee. The licensee may affix a decal or sticker on the license in the space provided which indicates that the licensee is a donor under the Uniform Anatomical Gift Act. The decal shall not be larger than one-half inch in diameter. The use of the decal or sticker on the license shall be authorized only if the licensee has complied with the provisions for making a gift under the Uniform Anatomical Gift Act and shall be effective only if the licensee carries on or about the licensee's person a duly signed and executed donor card as authorized by the Uniform Anatomical Gift Act.

Sec. 25. Section three hundred twenty-one point one hundred eighty-nine (321.189), subsection three (3), Code 1977, is amended to read as follows:

3. CARRIED AND EXHIBITED. Every licensee shall have his or her operator's or chauffeur's, or motorized bicycle license or instruction permit in ~~his~~ immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of a judicial magistrate or district associate judge, a peace officer, or a field deputy or examiner of the department. However, no person charged with violating this section shall be convicted if he or she produces in court, within a reasonable time, an operator's or chauffeur's or motorized bicycle license or instruction permit issued to him or her and valid at the time of ~~his~~ the person's arrest.

Sec. 26. Section three hundred twenty-one point two hundred ten (321.210), unnumbered paragraph five (5), Code 1977, is amended to read as follows:

If the department assesses any points against an operator or chauffeur of a motor vehicle under any point system devised by the department for the purpose of suspending operators' or chauffeurs' licenses, the department must notify the

licensee by ordinary mail that such points have been assessed and the reason therefor. Such notice shall also contain a reference to all code sections under which the person's motor vehicle license may be suspended, revoked, canceled or denied. Provided that no license shall be suspended on the basis of any point system devised by the department without notice of proposed suspension to the licensee and a reasonable opportunity for a preliminary hearing before a member of the department who shall have authority in meritorious cases to revoke the suspension.

Sec. 27. Section three hundred twenty-one point two hundred eleven (321.211), Code 1977, is amended to read as follows:

321.211 NOTICE AND HEARING. Upon suspending the license of any person as hereinbefore authorized the department shall immediately notify the licensee in writing and upon his or her request shall afford him or her an opportunity for a hearing before the director of his or her duly authorized agent as early as practical within not to exceed thirty days after receipt of such request in the county wherein the licensee resides unless the department and the licensee agree that such hearing may be held in some other county. Upon such hearing the director or his or her duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the department shall either rescind its order of suspension or for good cause may extend the suspension of such license or revoke such license. There is hereby appropriated each year from the general fund of the state to the department one hundred five thousand dollars or so much thereof as may be necessary to be used to pay the cost of notice and personal delivery of service, if necessary to meet the notice requirement of this section. The department shall promulgate rules governing the payment of the cost of personal delivery of service. The reinstatement fees collected under section three hundred twenty-one point one hundred ninety-one (321.191) of the Code shall be deposited in the general fund of the state in a manner provided in section three hundred twenty-one point one hundred ninety-two (321.192) of the Code, as reimbursement for the costs of notice under this section.

A peace officer stopping a person for whom a notice of a suspension or revocation has been issued or to whom a notice of a hearing has been sent under the provisions of this section

may personally serve such notice upon forms approved by the department to satisfy the notice requirements of this section. The peace officer may confiscate the motor vehicle license of such person if the license has been revoked or has been suspended subsequent to a hearing and the person has not forwarded the motor vehicle license to the department as required.

Sec. 28. Section three hundred twenty-one point two hundred thirty-eight (321.238), subsection ten (10), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

In making a vehicle inspection, the inspection station shall inspect such of the following equipment as is applicable to the vehicle: Brakes, lights, turning signals, steering, sound devices, glass, mirrors, exhaust system, windshield wipers, seat belts, tires and such other safety equipment as may be prescribed for inspection under rules adopted by the director. ~~The inspection station shall also inspect each motor vehicle to ascertain that none of the factory-installed emission control devices have been removed or rendered inoperable.~~

Sec. 29. Section three hundred twenty-one point two hundred thirty-eight (321.238), subsection twelve (12), Code 1977, is amended to read as follows:

12. Every motor vehicle subject to registration under the laws of this state, except motor vehicles registered under section 321.115, and motorized bicycles, motor vehicles transferred under the provisions of sections three hundred twenty-one point fifty-one (321.51) and three hundred twenty-one point fifty-two (321.52) of the Code when first registered in this state, other than a registration to a dealer licensed under chapter 322, and each time when transferred for use within this state or when registration is changed from a registration as provided in section 321.115 to a regular registration, other than transfers to a dealer licensed under chapter 322, shall be inspected at an authorized inspection station, unless there is affixed to the motor vehicle a valid certificate of inspection which was issued for the motor vehicle not more than sixty days prior to the date on which the vehicle was transferred and the vehicle has not been transferred during the sixty-day period, provided that during a one-year period the vehicle may be transferred between parents and their children ~~or between spouses~~ without another inspection. A vehicle inspection is not required when the transfer of a vehicle or an interest in the vehicle is between

spouses or when required pursuant to a decree for dissolution of marriage between former spouses. However, the certificate of inspection for a new motor vehicle which has not previously been sold at retail and which is not sold within sixty days after the date the inspection was performed may be revalidated by the inspection station without another inspection provided the motor vehicle has not been driven more than one hundred miles since the inspection was performed. If the motor vehicle is subject to inspection, the authorized inspection station shall issue and affix a valid certificate of inspection or certificate of rejection, as the case may be, in accordance with the results of the inspection. If an inspection is required, an applicant shall file with an application for title to the vehicle or for registration thereof under the provisions of section 321.23, subsection 2 or 3, with the county treasurer of the county of his or her residence, a statement on a form provided by the director, signed by an authorized inspection station certifying the date that a certificate of inspection was issued for and affixed to the vehicle. If an inspection is required the county treasurer shall not issue a title to the vehicle to the applicant or register the vehicle unless such statement is filed with the application showing that the inspection of the vehicle was made not more than sixty days prior to the date of sale or transfer, or unless the vehicle was purchased out of this state by a resident of this state who resides outside of this state, but desires to maintain his or her Iowa residency and he or she executes a statement to that effect in form and content as prescribed by the director. The county treasurer shall stamp the registration card for such vehicle with the words "NOT INSPECTED." A vehicle so registered shall be inspected at an authorized inspection station within fifteen days after being brought into this state. The county treasurer shall mail the statement of inspection or statement of out-of-state residence to the department at the time of mailing copies of the registration receipt. The department may destroy any forms, certificates or statements after one year from the date they are filed unless they relate to pending appeals.

~~The-provisions-of-this-subsection-shall-not-be-applicable to-the-transfer-of-a-motor-vehicle-to-the-insurer-of-such vehicle-who-obtains-ownership-of-such-vehicle-as-a-result of-a-settlement-with-the-owner-thereof-arising-out-of-damage to-such-vehicle-and-written-proof-thereof-is-submitted-to the-county-treasurer-on-forms-prescribed-by-the-department.~~

Sec. 30. Section three hundred twenty-one point two hundred fifty-six (321.256), Code 1977, is amended to read as follows:

321.256 OBEDIENCE TO OFFICIAL TRAFFIC-CONTROL DEVICES.

No driver of a vehicle ~~or motorman-of-a-streetcar~~ shall disobey the instructions of any official traffic-control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a ~~police~~ peace officer subject to the exceptions granted the driver of an authorized emergency vehicle.

Sec. 31. Section three hundred twenty-one point two hundred fifty-seven (321.257), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

321.257 OFFICIAL TRAFFIC CONTROL SIGNAL.

1. For the purposes of this section "stop at the official traffic control signal" means stopping at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection.

2. Official traffic control signals consisting of colored lights or colored lighted arrows shall regulate vehicle and pedestrian traffic in the following manner:

a. A "steady circular red" light means vehicular traffic shall stop. Vehicular traffic shall remain standing until a signal to proceed is shown or vehicular traffic, unless prohibited by a sign, may cautiously enter the intersection to make a right turn from the right lane of traffic or a left turn from a one-way street to a one-way street from the left lane of traffic on a one-way street onto the left most lane of traffic on a one-way street. Turns made under this paragraph shall be made in a manner that does not interfere with other vehicular or pedestrian traffic lawfully using the intersection. Pedestrian traffic facing a steady circular red light shall not enter the roadway unless the pedestrian can safely cross the roadway without interfering with any vehicular traffic.

b. A "steady circular yellow" or a "steady yellow arrow" light means vehicular traffic is warned that the related green movement is being terminated and vehicular traffic shall no longer proceed into the intersection and shall stop. If the stop cannot be made in safety, a vehicle may be driven cautiously through the intersection. Pedestrian traffic is warned that there is insufficient time to cross the intersection and any pedestrian starting to cross the roadway shall yield the right-of-way to all vehicles.

c. A "steady circular green" light means vehicular traffic

may proceed straight, turn right or turn left through the intersection unless otherwise specifically prohibited. Vehicular traffic shall yield the right-of-way to other vehicular and pedestrian traffic lawfully within the intersection.

d. A "steady green arrow" light shown alone or with another official traffic control signal means vehicular traffic may cautiously enter the intersection and proceed in the direction indicated by the arrow. Vehicular traffic shall yield the right-of-way to other vehicles and pedestrians lawfully within the intersection.

e. A "flashing circular red" light means vehicular traffic shall stop and after stopping may proceed cautiously through the intersection yielding to all vehicles not required to stop or yield which are within the intersection or approaching so closely as to constitute a hazard, but then may proceed.

f. A "flashing yellow" light means vehicular traffic shall proceed through the intersection or past such signal with caution.

g. A "don't walk" light is a pedestrian signal which means that pedestrian traffic facing the illuminated pedestrian signal shall not start to cross the roadway in the direction of the pedestrian signal, and pedestrian traffic in the crossing shall proceed to a safety zone.

h. A "walk" light is a pedestrian signal which means that pedestrian traffic facing the illuminated pedestrian signal may proceed to cross the roadway in the direction of the pedestrian signal and shall be given the right-of-way by drivers of all vehicles.

Sec. 32. Section three hundred twenty-one point two hundred fifty-eight (321.258), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

321.258 ARRANGEMENT OF LIGHTS ON OFFICIAL TRAFFIC CONTROL SIGNALS.

1. Colored lights placed on a vertical official traffic control signal face shall be arranged from the top to the bottom in the following order when used: Circular red, circular yellow, circular green, straight through yellow arrow, straight through green arrow, left turn yellow arrow, left turn green arrow, right turn yellow arrow, and right turn green arrow.

2. Colored lights placed on a horizontal official traffic control signal face shall be arranged from the left to the

right in the following order when used: Circular red, circular yellow, left turn yellow arrow, left turn green arrow, circular green, straight through yellow arrow, straight through green arrow, right turn yellow arrow, and right turn green arrow.

Sec. 33. Section three hundred twenty-one point two hundred sixty-five (321.265), Code 1977, is amended to read as follows:

321.265 STRIKING FIXTURES UPON A HIGHWAY. The driver of any vehicle involved in an accident resulting only in damage to property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner, a peace officer or person in charge of such property of such fact and of his or her name and address and of the registration number of the vehicle he-is-driving causing the damage and shall upon request and if available exhibit his or her operator's or chauffeur's license and shall make report of such accident when and as required in section 321.266.

Sec. 34. Section three hundred twenty-one point three hundred twenty-two (321.322), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

321.322 VEHICLES ENTERING STOP OR YIELD INTERSECTION.

1. The driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. Before proceeding, the driver shall yield the right-of-way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

2. The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions and, if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the

driver is moving across or within the intersection.

Sec. 35. Section three hundred twenty-one point three hundred forty-two (321.342), unnumbered paragraph one (1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section forty-seven (47), is amended by striking the paragraph and inserting in lieu thereof the following:

The driver of any vehicle approaching a railroad grade crossing across which traffic is regulated by a stop sign, a railroad sign directing traffic to stop or an official traffic control signal displaying a flashing red or steady circular red colored light shall stop prior to crossing the railroad at the first opportunity at either the clearly marked stop line or at a point near the crossing where the driver has a clear view of the approaching railroad traffic.

Sec. 36. Section three hundred twenty-one point three hundred forty-five (321.345), Code 1977, is amended to read as follows:

321.345 STOP OR YIELD AT THROUGH HIGHWAYS. The department, based on an engineering study, with reference to primary highways, and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs or yield signs, in accordance with specifications established by the department at specified entrances thereto to the highway or may designate any intersection as a stop intersection or as a yield intersection and erect like signs at one or more entrances to such intersection.

~~Every said sign shall bear the word "Stop" or "Yield" in letters not less than six inches in height. Every stop or yield sign shall be located as near as practical at the property line of the highway at the entrance to which the stop or yield must be made, or at the nearest line of the crosswalk thereat, or, if none, at the nearest line of the roadway.~~

~~Every driver of a vehicle and every motorman of a streetcar shall stop or yield at such sign or at a clearly marked stop line before entering an intersection except when directed to proceed by a police officer or traffic control signal.~~

Sec. 37. Section three hundred twenty-one point three hundred ninety-three (321.393), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

No lighting device or reflector, when mounted on or near

the front of any motor truck or trailer, except school buses shall display any other color than white, yellow, or amber; provided that installations heretofore in place and otherwise complying with the law may display a green light ~~until~~ replacements-are-made, however, such green light shall be replaced with the appropriate color when replacement is made or prior to January 1, 1980, whichever is earlier.

Sec. 38. Section three hundred twenty-one point four hundred thirty-seven (321.437), Code 1977, is amended to read as follows:

321.437 MIRRORS. Every motor vehicle shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle. Any motor vehicle so loaded, or towing another vehicle in such manner, as to obstruct the view in a rear view mirror located in the driver's compartment shall be equipped with a side mirror so located that the view to the rear will not be obstructed however when such vehicle is not loaded or towing another vehicle the side mirrors shall be retracted or removed. All van or van type motor vehicles shall be equipped with outside mirrors of unit magnification, each with not less than nineteen point five square inches of reflective surface, installed with stable supports on both sides of the vehicle, located so as to provide the driver a view to the rear along both sides of the vehicle, and adjustable in both the horizontal and vertical directions to view the rearward scene.

Sec. 39. Chapter three hundred twenty-one (321), Code 1977, is amended by adding the following new section:

NEW SECTION.

1. Upon conviction and the suspension or revocation of a person's motor vehicle license under sections three hundred twenty-one point two hundred nine (321.209), subsections six (6) and seven (7), three hundred twenty-one point two hundred ten (321.210) or three hundred twenty-one point five hundred fifty-five (321.555), subsection two (2), of the Code, and upon the denial by the director of an application for a temporary restricted license, a person may apply to the district court having jurisdiction for the residence of the person for a temporary restricted permit to operate a motor vehicle to and from work. The application may be granted only if all the following criteria is satisfied:

a. The restricted temporary permit is requested only for a case of extreme hardship where alternative means of

transportation does not exist.

b. The permit applicant has not made an application for such a permit in any other district court in the state which was denied or revoked.

c. The permit is restricted for travel to and from work at times specified in the permit.

d. Proof of financial responsibility is established as defined in chapter three hundred twenty-one A (321A) of the Code.

2. The district court shall forward a record of each application for such temporary restricted permit to the department, together with the results of the disposition of the request by the court.

3. A temporary restricted permit shall be valid only if the department is in receipt of records required by this section. The permit shall be canceled upon conviction of a moving traffic violation as defined in section three hundred twenty-one point one hundred eighty-one (321.181) of the Code, or upon any violation of the terms of the permit.

Sec. 40. Section three hundred twenty-one A point seventeen (321A.17), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. An individual applying for a motor vehicle license following a period of suspension or revocation under the provisions of section three hundred twenty-one point two hundred sixteen (321.216) of the Code Supplement shall not be required to maintain proof of financial responsibility under the provisions of this section.

Sec. 41. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section fifty-four (54), the first new section added to chapter three hundred twenty-one E (321E), Code 1977, is amended to read as follows:

NEW SECTION. EXCESS SIZE DIVISIBLE LOAD PERMITS. Vehicles or a combination of vehicles with divisible loads may be moved on the highways of this state pursuant to a special permit issued for special or emergency situations by the department or local authorities subject to the discretion and judgment provided for in section three hundred twenty-one E point one (321E.1) of the Code. The combined gross weight or gross weight on any one axle or group of axles may exceed the limits established in section three hundred twenty-one point four hundred sixty-three (321.463) of the Code, subject to the limits and routes established by the issuing authority. However movement of hay, straw or stover may be allowed in

the absence of special or emergency situations, however such movement shall be consistent with the other requirements for movement of oversize divisible loads.

Sec. 42. Section three hundred twenty-two point two (322.2), subsection seven (7), Code 1977, is amended to read as follows:

7. "Motor vehicle" means any self-propelled vehicle subject to registration under the laws of this state.

Sec. 43. Section three hundred twenty-two point five (322.5), Code 1977, is amended to read as follows:

322.5 LICENSE FEE. The license fee for a motor vehicle dealer for each calendar year or part thereof shall be the sum of thirty-five dollars for the licensee's principal place of business in each city or township and an additional five ten dollars for each used-car car lot which is in the city or township wherein-said in which the principal place of business is located and which is not adjacent to such place, to be paid to the department at the time a license is applied for. In case the application is denied, the department shall refund the amount of such fee to the applicant.

A motor vehicle dealer may display new motor vehicles at fairs, vehicle shows and vehicle exhibitions. Motor vehicle dealers, in addition to selling vehicles at their principal place of business and car lots, may, upon receipt of a temporary permit approved by the department, display and offer new motor vehicles for sale and negotiate sales of new motor vehicles only at county fairs, as defined in chapter one hundred seventy-four (174) of the Code, vehicle shows and vehicle exhibitions which fairs, shows and exhibitions are approved by the department and are held in the county of the motor vehicle dealer's principal place of business. Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten dollar permit fee. Permits shall be issued for periods of not to exceed fourteen days. No sale of a motor vehicle by a motor vehicle dealer shall be completed nor any sales agreement signed at any such fair, show or exhibition. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

Sec. 44. Section eight hundred five point eight (805.8), subsection two (2), paragraph b, Code 1977 Supplement, is amended to read as follows:

b. For registration violations under sections 321.17, 321.32, 321.34, 321.37, 321.38, 321.41, and ~~324.490~~ section

three hundred twenty-one point one hundred eighty-nine (321.189) of the Code, the scheduled fine is five dollars. For violations of ~~section-321.190~~ sections three hundred twenty-one point thirty-two (321.32) and three hundred twenty-one point one hundred eighty-nine (321.189), subsection three (3), of the Code, the case shall be dismissed without imposition of fine or costs if a license or registration valid at the time of the issuance of the citation is presented by the defendant to the magistrate or scheduled violations office.

Sec. 45. Section eight hundred five point eight (805.8), subsection two (2), paragraph c, Code 1977 Supplement, is amended to read as follows:

c. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brakelights, under sections 321.317, 321.387, 321.388, 321.389, 321.390, 321.391, 321.392, three hundred twenty-one point three hundred ninety-three (321.393) of the Code, 321.399, 321.422, 321.432, 321.435, 321.436, 321.437, 321.438, 321.439, 321.440, 321.441, 321.442, 321.444, 321.445, and 321.447 the scheduled fine is ten dollars.

Sec. 46. The state department of transportation shall promulgate rules to provide for the placement of motor vehicle registration validation stickers on all registration plates issued for the motor vehicle when such validation stickers are issued in lieu of issuing new registration plates under the provisions of section three hundred twenty-one point thirty-four (321.34) of the Code.

Sec. 47. Sections three hundred twenty-one point one hundred twenty-four (321.124) and three hundred twenty-one point four hundred thirty-five (321.435), Code 1977, are repealed.

Sec. 48. Sections one (1) through eighteen (18), twenty (20), twenty-three (23), twenty-six (26), thirty (30) and thirty-four (34) of this Act shall become effective January 1, 1979.

Approved June 23, 1978

CHAPTER 1114
MOTOR VEHICLE TRANSPORTATION

S. F. 2215

AN ACT relating to motor vehicle transportation regulation.

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

Section 1. Section three hundred twenty-two A point six (322A.6), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An applicant seeking permission to enter into a franchise for additional representation of the same line-make in a community shall deposit with the board at the time the application is filed, an amount of money to be determined by the board to secure the payment of the costs and expenses of the hearing. The applicant shall pay the costs of the hearing.

Sec. 2. Section three hundred twenty-five point two (325.2), subsection one (1), Code 1977, is amended to read as follows:

1. Fix or approve the rates, fares, charges, classifications, and rules ~~and regulations~~ pertaining thereto, of each motor carrier, ~~except that any carrier transporting livestock or unprocessed agricultural or horticultural products shall be exempt from tariff-filing requirements and the issuance of freight receipts if such carrier does not transport any other property for compensation.~~

Sec. 3. Section three hundred twenty-five point six (325.6), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred three (103), section fifty-eight (58), is amended to read as follows:

1. It is hereby declared unlawful for any motor carrier, except a person operating a motor vehicle in a carpool or vanpool, to transport over a regular route or between fixed termini any person or property, for compensation, from any point or place in the state of Iowa to another point or place in said state irrespective of the route, highway or highways traversed, including the crossing of any state line of the state of Iowa, or the ticket or bill of lading issued and used for such transportation, without first having obtained from the board a certificate declaring that public convenience and necessity require such operation. No carrier of passengers

shall operate as a charter carrier in this state unless already possessed of a certificate of convenience and necessity as a common carrier of passengers and operating in this state as such common carrier or possesses a certificate of convenience and necessity to engage in the business of a charter carrier.

2. The board may allow the provision of temporary service for which there is an immediate and urgent need to point or points requested by the application for a certificate of public convenience and necessity upon a finding that no carrier has operating authority to serve those points or no carrier is currently serving those points and upon meeting the requirements of this chapter and the rules ~~and regulations~~ of the board. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the board shall specify but not more than an aggregate of one hundred eighty days, and shall create no presumption that the corresponding application will be granted thereafter.

3. A motor carrier providing primarily passenger service for elderly, handicapped and other transportation disadvantaged persons shall be exempt from certification requirements of this section if it satisfies each of the following requirements:

a. The motor carrier is not a corporation organized for profit under the laws of Iowa or any other state or the motor carrier is a governmental organization.

b. The motor carrier receives any operating funds from federal, state or local government sources.

c. The motor carrier does not duplicate a transportation service provided by a motor carrier issued a certificate of convenience and necessity.

Each motor carrier exempt under the provisions of this subsection shall obtain a permit from the department, which shall be nontransferable. Such carriers shall comply with all safety, insurance and other rules of the department pertaining to a publicly funded transit system.

Sec. 4. Section three hundred twenty-six point fifteen (326.15), Code 1977, is amended to read as follows:

326.15 TOTAL COMPOSITE OVER ONE HUNDRED PERCENT--REFUND. If the composite percentage apportioned by an owner on a fleet of vehicles based in Iowa to each of the states with which Iowa has an apportionment agreement is more than one hundred percent percentagewise, the fleet owner may file a claim with the department for a refund of registration fees paid in

excess of one hundred percent percentagewise. The claim for such refund shall be filed on or after December 4 first of the year for which refund is requested, and the fleet owner shall furnish satisfactory evidence of the alleged overpayment. The department shall prescribe and provide suitable forms requisite or deemed necessary to process such claims and insure that claims are paid to fleet owners who have complied with proportional registration requirements. The fleet owner may elect to apply any such refund to proportional registration fees payable the next registration year in lieu of any refund payable under this section. The state of Iowa shall not be liable for claims ~~filed after December 4 of the following year~~ unless filed within four full years following the calendar year for which the application is made.

Sec. 5. Section three hundred twenty-seven point one (327.1), subsection six (6), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The term "individual written contract" shall mean an agreement in writing between a contract carrier and a shipper, effective for a duration of at least three months, imposing mutual obligations to tender freight and perform transportation, and specifying the charges. ~~The presence of goods originating from more than five shippers on one vehicle at any one time shall be prima facie evidence that the carrier is a motor carrier and not a contract carrier.~~ The board shall authorize by rule the number of contracts which contract carriers may have in effect and on file at any one time. Special permission may be obtained from the board to file more than the prescribed number of contracts upon good cause shown.

Sec. 6. Section three hundred twenty-seven point four (327.4), Code 1977, is amended to read as follows:

327.4 POWERS. All control, power, and authority over railroads and railroad companies, motor vehicles and motor carriers now vested in the board, insofar as the same are applicable, are hereby specifically extended to include truck operators and contract carriers. However, any truck operator transporting livestock or unprocessed agricultural or horticultural products shall be exempt from tariff filing requirements and the issuance of freight receipts for such commodities.

Sec. 7. The provisions of this Act shall become effective January 1, 1979.

Approved June 5, 1978

CHAPTER 1115

INTERSTATE TRANSPORTATION OF FUEL

H. F. 2289

AN ACT transferring the responsibilities to administer the interstate fuel use tax law from the department of revenue to the state department of transportation.

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

Section 1. Section three hundred twenty-four point eleven (324.11), subsections one (1) and three (3), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred seven (107), section two (2), are amended to read as follows:

1. Any person operating as a common or contract carrier and any distributor who is also engaged in transportation within this state of motor fuel or special fuel for others, shall register with the state department of ~~revenue-or-or~~ ~~before-the-first-day-of-the-third-calendar-month-which-begins~~ ~~after-the-effective-date-of-this-division-and-currently~~ ~~thereafter~~ transportation as additional equipment is put to use, each vehicle used ~~in-aforesaid-transportation~~ to transport motor fuel or special fuel in this state, except railroad, water-vessel or pipe-line equipment. The registration shall be on forms furnished by and shall contain such information as may reasonably be required by the state department of revenue transportation. A fee of five dollars shall be paid to the state department of revenue transportation for original registration of each vehicle. The state department of revenue transportation shall furnish to the registrant for each vehicle registered suitable identification which shall be permanently attached to the vehicle and shall be available for inspection at all times. ~~Currently-as~~ When any ~~vehicle-is-retired-or~~ ~~its registered vehicle's~~ use for the transportation of motor fuel or special fuel for others is discontinued, the registrant shall notify the state department of ~~revenue-or-at-the~~ ~~direction-of-the-department-of-revenue~~ transportation and shall either surrender to the state department of revenue transportation or destruy, subject to the approval of the state department of transportation, transfer the vehicle identification issued under this section to another vehicle. ~~Annually-on~~ On or before the first day of July of each year,

each carrier as aforesaid shall file with the state department of revenue transportation a statement showing each registered vehicle then in use for transportation of motor fuel or special fuel for others.

3. The state department of revenue transportation shall have the power to refuse to register a vehicle owned or used by any person, either directly or indirectly, who has had a license revoked for cause which license was issued under the provisions of this chapter or any prior motor fuel tax law.

Sec. 2. Section three hundred twenty-four point fifty-one (324.51), Code 1977, is amended to read as follows:

324.51 PURPOSE. The purpose of this division is to provide an additional method of collecting fuel taxes from interstate motor vehicle operators commensurate with their operations on Iowa highways; and to permit the state department of revenue transportation to suspend this collection as to transportation entering Iowa from any other state where it appears that Iowa highway fuel tax revenue and interstate highway transportation moving out of Iowa will not be unduly prejudiced thereby.

Sec. 3. Section three hundred twenty-four point fifty-two (324.52), Code 1977 Supplement, is amended to read as follows:

324.52 FUELS IMPORTED IN SUPPLY TANKS OF MOTOR VEHICLES. No person shall bring into this state in the fuel supply tanks of a commercial motor vehicle, or any other container, regardless of whether or not the supply tanks are connected to the motor of the vehicle, any motor fuel or special fuel to be used in the operation of the vehicle in this state unless ~~he~~ that person has paid or made arrangements in advance with the state department of revenue transportation for payment of Iowa fuel taxes on the gallonage consumed in operating the vehicle in this state; except that this division shall not apply to a private passenger automobile.

Any person who is unable to display either of the permits provided in section 324.53 and brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of the provisions of the preceding paragraph is guilty of a simple misdemeanor.

Sec. 4. Section three hundred twenty-four point fifty-three (324.53), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred

seven (107), section four (4), is amended to read as follows:

324.53 PERMIT--BOND. The advance arrangements referred to in the preceding section shall include the procuring of a permanent interstate fuel permit or single trip interstate permit and may ~~in~~ at the discretion of the state department of revenue transportation include the posting of a suitable indemnity bond in a sum to be fixed by the state department of revenue transportation to assure the required reporting, tax payments and the keeping of required records.

Persons choosing not to make advance arrangements with the state department of revenue transportation by ~~the~~ procuring ~~of~~ a permit are not relieved of their responsibility to purchase motor fuel and special fuel commensurate with their use of the state's highway system. The state department of transportation may audit persons not holding a permit who are suspected of evading the fuel tax on commercial motor vehicles. Audits shall be conducted pursuant to section 324.55.

A permanent permit may be obtained upon application to the state department of revenue transportation. ~~The department of revenue shall charge a~~ A fee of five dollars shall be charged for each permit issued. The holder of a permanent permit ~~under this division~~ shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel to be used in the operation of the vehicles and for that privilege shall pay Iowa motor fuel or special fuel taxes as provided in section 324.54. A single trip interstate permit as provided for in this section may be obtained from the ~~department of revenue or the~~ state department of transportation. A fee of twelve dollars shall be charged for each individual single trip interstate permit issued. A single trip interstate permit shall be subject to the following provisions and limitations:

1. The permit shall be issued and be valid for seventy-two consecutive hours, except in emergencies, or until the time of leaving the state, whichever first occurs.
2. The permit shall cover only one commercial motor vehicle and is not transferable.
3. Single trip interstate fuel permits may be made available from sources other than indicated in this section at the discretion of the ~~director of revenue~~ state department of transportation.

Each vehicle operated into or through Iowa in interstate operations using motor fuel or special fuel acquired in any other state shall carry in or on each the vehicle a duplicate or evidence of the permit required in this section. ~~A visible sign of a compliance with this section may at the discretion of the director of revenue be attached to the outside of a commercial motor vehicle.~~ A fee not to exceed fifty cents shall be charged ~~by the department of revenue~~ for each duplicate or other evidence of permit issued ~~by him~~.

Sec. 5. Section three hundred twenty-four point fifty-four (324.54), unnumbered paragraphs two (2) and four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred seven (107), section one (1), are amended to read as follows:

Notwithstanding any provision of this chapter to the contrary, the ~~director~~, upon holder of a permanent permit may make application filed with to the state department of revenue transportation for a refund, not later than thirty days after the last day of the quarter in which the overpayment of Iowa fuel tax paid on excess purchases of motor fuel or special fuel was reported as provided in section 324.8, and which application is supported by such proof as the ~~director~~ state department of transportation may require. The state department of transportation shall ~~cause to be issued a warrant covering a~~ refund of Iowa fuel tax paid on motor fuel or special fuel purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.

To determine the amount of fuel taxes due under this division and to prevent the evasion thereof, the ~~director~~ state department of transportation shall require a quarterly report on forms prescribed by the ~~director~~ state department of transportation. It shall be filed not later than the last day of the month following the quarter reported, and each quarter thereafter. These reports shall be required of all persons who have been issued a permit under this division and shall cover actual operation and fuel consumption in Iowa on the basis of the permit holder's average consumption of fuel in Iowa, determined by the total miles traveled and the total fuel purchased and consumed for highway use by the permittee's commercial motor vehicles in ~~his~~ the permittee's entire operation in all states to establish an overall miles per gallon ratio, which ratio shall be used to compute the gallons used for the miles traveled in Iowa.

Sec. 6. Section three hundred twenty-four point fifty-five (324.55), Code 1977, is amended to read as follows:

324.55 RECORDS. Every person operating within the purview of this division shall make and keep for a period of three years such records as may reasonably be required by the state department of revenue transportation for the administration of this division. If in the normal conduct of the business, the required records are maintained and kept at an office outside the state of Iowa, it shall be a sufficient compliance with this section if the records are made available for audit and examination by the state department of revenue transportation at the office outside Iowa, ~~but such audit and examination shall be without expense to the state of Iowa.~~

~~When, as a result of such audit and examination, fuel taxes unpaid and due are found owing the state of Iowa in an amount exceeding five hundred dollars such audit and expenses shall be without cost to the state of Iowa.~~ The state department of revenue transportation within a period of one year from the issuance of a permanent interstate fuel permit may audit the records of the permittee for the two years preceding the issuance of the permit. The state department of transportation shall collect all taxes due had the permittee been licensed for the two years prior to the issuance of the permit and shall refund ~~all excess credit that would have been paid any overpayment~~ pursuant to section 324.54. When, as a result of an audit, fuel taxes unpaid and due the state of Iowa exceed five hundred dollars, such audit shall be at the expense of the person whose records are being audited. However, if an audit of records maintained under this section is made outside the state of Iowa in a state which requires payment of the costs for similar audits performed by officials or employees of the other state when made in Iowa, then all costs of audits performed outside of Iowa in such other state shall be at the expense of the person whose records are audited.

Sec. 7. Section three hundred twenty-four point fifty-six (324.56), Code 1977, is amended to read as follows:

324.56 NOT APPLICABLE TO DISTRIBUTORS. The provisions of this division shall not be required of a distributor licensed under division I of this chapter who elects to report and pay tax on motor fuel as is set out in division I and on special fuel as is set out in division II of this chapter, provided that a distributor so electing shall also report to the state department of transportation and pay Iowa fuel

tax on motor fuel and special fuel purchased in another state which is used to propel a commercial motor vehicle owned or leased by the distributor on the highways of this state. Such distributor shall be allowed to enter this state with thirty gallons or more fuel in the supply tank of a commercial motor vehicle, but shall not be allowed any other provision of this division.

Sec. 8. Section three hundred twenty-four point fifty-seven (324.57), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred six (106), section three (3), is amended by adding the following new subsection:

NEW SUBSECTION. "Appropriate state agency" or "state agency" means the department of revenue or the state department of transportation, whichever is responsible for control, maintenance or supervision of the power, requirement or duty referred to in the provision. The department of revenue shall administer the provisions of divisions one (I) and two (II) of this chapter of the Code, and the state department of transportation shall administer the provisions of division three (III) of this chapter of the Code.

Sec. 9. Section three hundred twenty-four point sixty (324.60), Code 1977, is amended to read as follows:

324.60 FORMS OF REPORT, REFUND CLAIM AND RECORDS. The department of revenue or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by motor fuel distributors, motor fuel dealers, motor fuel carriers, special fuel dealers, special fuel users, and interstate commercial motor vehicle operators.

Whenever in this chapter the department of revenue or the state department of transportation is authorized to prescribe the form of record to be kept, the department appropriate state agency may in lieu thereof approve the form of record being kept, and shall approve the form of record where it furnishes in reasonably accessible form the information which ~~the department of revenue requires,~~ is required and which substantially complies with the prescribed form.

Sec. 10. Section three hundred twenty-four point sixty-one (324.61), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The department of revenue or the state department of transportation upon application may grant a reasonable extension of time for the filing of any required report or tax payment, or both.

Sec. 11. Section three hundred twenty-four point sixty-two (324.62), Code 1977, is amended to read as follows:

324.62 INSPECTION OF RECORDS. The department of revenue or the state department of transportation, whichever is applicable, is hereby given the authority within the time prescribed for keeping records (1) to examine, during the usual business hours of the day, the records, books, papers, receipts, invoices, storage tanks, and any other equipment of (a) any distributor, dealer, purchaser, or common, contract or other carrier, pertaining to motor fuel received, used, sold, delivered, or otherwise disposed of, or (b) of any special fuel dealer, special fuel user or person supplying special fuel to any dealer ~~therein~~ or user thereof of special fuel and (c) of any interstate operator of motor vehicles to verify the truth and accuracy of any statement, report or return, or to ascertain whether or not the taxes imposed by this chapter have been paid; (d) any person selling fuel oil that can be used for highway use; and (2) to examine the records, books, papers, receipts, and invoices of any distributor, special fuel dealer or special fuel user to determine financial responsibility for the payment of the taxes imposed by this chapter.

If any person within the purview of this section shall refuse access to pertinent records, books, papers, receipts, invoices, storage tanks or any other equipment, then the ~~said department-of-revenue~~ appropriate state agency shall certify the names and facts to any court of competent jurisdiction, and the said court shall enter such order in the premises as the enforcement of this chapter and justice shall require.

Sec. 12. Section three hundred twenty-four point sixty-three (324.63), Code 1977 Supplement, is amended to read as follows:

324.63 INFORMATION CONFIDENTIAL. All information obtained by the department of revenue or the state department of transportation from the examining of reports or records required to be filed or kept under the provisions of this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly or any duly appointed committee of either or both houses thereof of the general assembly or to

a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under the provisions of this chapter; provided, however, that the ~~department-of-revenue~~ appropriate state agency shall make available for public information on or before the last day of the month following the month in which the tax is required to be paid the names of the distributors and as to each of them the total gallons received in the state and separately, the received gallons (1) exported or sold for export, (2) sold tax-free in the state to entities that are exempt from the tax and (3) sold tax-free in the state to entities required to report and account for the tax thereon. The department of revenue shall also make available to the public information with respect to special fuel dealers and users and as to each of them the gallonage used and taxes paid. The department of revenue or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to such officials any pertinent information which the ~~department~~ appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish ~~to-the-department-of-revenue~~ like information.

Any person violating the provisions of this section, and disclosing the contents of any records or reports required to be kept or made under the provisions of this chapter, except as hereinabove otherwise provided, shall be guilty of a simple misdemeanor.

Sec. 13. Section three hundred twenty-four point sixty-four (324.64), Code 1977, is amended to read as follows:

324.64 ~~DEPARTMENT-OF-REVENUE~~ THE APPROPRIATE STATE AGENCY MAY ESTIMATE TAXABLE GALLONAGE. If any person fails to make and file a report required ~~of-him~~ or files an incorrect report, the ~~department-of-revenue~~ appropriate state agency shall, after investigation, determine the gallonage with respect to which the person incurred liability for fuel taxes under this chapter in any month or months and fix the amount of taxes thereon. ~~If the-department-of-revenue-should-at-any time-receive-complaints-or-reports~~ a complaint or report is received from any source that a licensee or other person is suspected of evading fuel taxes imposed by this chapter or has failed to report all the gallonage the reporting of which

is required under this chapter, or is suspected of acting as a distributor or special fuel dealer or user without a license or of withholding payment of fuel taxes, the ~~department of revenue~~ appropriate state agency, upon five days' notice to the person complained against of the nature of the complaint or report and of the time and place of a hearing ~~thereon~~ on the complaint, may proceed to hold the hearing and determine the amount of fuel taxes, if any, due from that person. ~~The department-of-revenue-may-adjourn-the~~ hearing may be adjourned from time to time until the completion ~~thereof~~ of the hearing. ~~The-department-may-use-any~~ Any information available may be used in determining the amount, if any, of fuel taxes for which the person is liable. Upon determining the amount ~~thereof-the-department~~ of liability there shall ~~add be added~~ the penalties and interest provided for in section 324.65 and make a copy of an assessment for the amount of the unpaid taxes, penalties and interest, shall ~~furnish-a-copy-thereof~~ be furnished to the person against whom the assessment is made and ~~his~~ the person's surety and the appropriate state agency shall certify the same for collection or other appropriate action by the proper public official. The findings ~~of-the-department-of-revenue~~ as to the amount of fuel taxes due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the department of revenue or the state department of transportation, whichever is the appropriate state agency, shall be admitted in evidence, shall constitute a prima-facie case, shall impose upon the other party the burden of showing any error in the ~~department's~~ finding and the extent ~~thereof~~ of any error or that the finding was contrary to law.

Sec. 14. Section three hundred twenty-four point sixty-five (324.65), Code 1977, is amended to read as follows:

324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL TAXES. If a licensee or other person fails to file a required report with the ~~department-of-revenue~~ appropriate state agency on or before the due date, unless it is shown that such failure was due to reasonable cause there shall be added to the amount required to be shown as tax due on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which such failure continues, not exceeding twenty-five percent in the aggregate. If a licensee or other person fails to remit the tax due with

the filing of the return on or before the due date or fails to pay any amount of the tax required to be shown on the return, there shall be added to the tax a penalty of five percent of the amount of the tax due, unless it is shown that such failure was due to reasonable cause. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. The ~~department of revenue~~ appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. Provided, further, that if it appears as a result of an investigation ~~by the department of revenue~~ or from a preponderance of the evidence adduced at a hearing ~~before the department of revenue~~ that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending person and collected a penalty of fifty percent of the tax due. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty for failure to pay the tax due or required on the return, except in the case of a deliberate attempt on the part of the licensee or other person to evade payment of fuel taxes. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, shall be subject to a penalty of ten dollars if such report is not timely filed with the appropriate state agency.

Sec. 15. Section three hundred twenty-four point sixty-six (324.66), subsections two (2), three (3), five (5), six (6), and seven (7), Code 1977, are amended to read as follows:

2. The certificate of the department of revenue or the state department of transportation, whichever is applicable, assessing the amount of fuel taxes and penalty due from a licensee or other person, ascertained in accordance with the provisions of this chapter or from a report of the person may be filed in the office of the clerk of the district court in the county in which the place of business of the licensee or other person is located. The clerk of the district court upon receipt of the certificate shall, without requiring

payment of any fee, file and index the same in manner now provided for judgments. The department-of-revenue appropriate state agency may in like manner, file a duplicate of the certificate in any other county where it shall be indexed in a like manner. The claim of the state of Iowa as shown by the certificate or duplicate so filed shall be a lien on the real estate of the person named therein in the certificate as owing fuel taxes and located in the county where the certificate or duplicate is recorded, for the amount shown by the certificate to be due including penalty and interest from the date of filing to the same extent as a mortgage lien.

3. The department-of-revenue appropriate state agency may give notice of the amount of fuel taxes and penalty due as-ascertained-by-the-department by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to a licensee or other person or to any person owing any debts to the licensee or other person. Thereafter the person notified shall neither transfer nor make any other disposition of credit or other personal property or debts until thirty days shall have elapsed from and after the receipt of the notice unless the department-of-revenue notifying state agency shall consent to a previous transfer or other disposition. At the expiration of the thirty-day period, the property shall be released, unless in the meantime it shall have been attached by process of court or the holder thereof of the property garnished. All persons so notified, must, within five days after receipt of the notice, advise the department-of-revenue notifying state agency of any and all credits or personal property or debts in their possession or under their control belonging or owed to the licensee or other person from whom the fuel taxes are due.

5. No sheriff, receiver, assignee, master or other officer shall sell the property or franchises of any licensee without first filing with the department of revenue, which shall forward notice to the state department of transportation, a statement containing the following information: Name or names of the plaintiff or party at whose instance or upon whose account the sale is made; name of the person whose property or franchise is to be sold; the time and place of sale; and the nature of the property and the location of the same. It shall be the duty of the department-of-revenue appropriate state agency, after receiving notice as-aforsaid,

to furnish to the sheriff, receiver, trustee, assignee, master or other officer, having charge of the sale, a certified copy or copies of all assessments for fuel taxes, penalties, and interest on file in the department-of-revenue state agency as liens against such person, and in the event there are no such liens a certificate showing that fact, which certified copy or copies of certificate shall be publicly read by such officer at and immediately before the sale of the property or franchise of such person.

6. It shall be the duty of the department of revenue or the state department of transportation to furnish to any person applying therefor a certificate showing the amount of all liens for fuel taxes, penalties, and interest that may be of record in the files of the department-of-revenue state agency against any person under the provisions of this chapter.

7. It shall be the duty of the department-of-revenue appropriate state agency, upon receipt of notice of the opening of the administration of an estate of any individual who was a licensee, to file a claim as a preferred creditor for all fuel taxes, penalties and interest due the state of Iowa, if any, in the court having jurisdiction over the administration of said estate.

Sec. 16. Section three hundred twenty-four point sixty-seven (324.67), subsections one (1), two (2), and four (4), Code 1977, are amended to read as follows:

1. It shall be unlawful for any distributor to sell or offer for sale motor fuel or for any special fuel dealer or user to dispense or offer to dispense special fuel into a fuel supply tank of a motor vehicle, while in default of or delinquent in the payment of the whole or any part of fuel taxes imposed under this chapter, and in the event of the failure or refusal to pay the whole of any of these taxes after assessment and notice ~~thereof~~ by the department-of-revenue appropriate state agency, the delinquent fuel taxes, together with penalties and interest provided for shall be recovered by and in the name of the state of Iowa and the attorney general of the state of Iowa or the county attorney of any county in which the distributor, dealer or user resides or is engaged in business is hereby authorized and directed to institute suit therefor for taxes, penalties and interest in any court of competent jurisdiction against the distributor or special fuel dealer or user or his the person's surety or sureties, if any, or both.

2. A fuel tax lien filed in the office of the clerk of the district court of any county may be foreclosed in the same manner as real estate mortgage liens are foreclosed, and the court in the proceedings shall enter judgment against the licensee or other person for the amount found by the court to be due to the state, with interest and the penalty as assessed by the ~~department-of-revenue~~ appropriate state agency, and may in the same proceedings foreclose on any security ~~which-the-department-of-revenue-may-hold~~ held for the payment of the fuel taxes, and may in the same proceedings entertain suit on any bond filed as security for the payment of the fuel taxes.

4. No action or other proceeding shall be maintained to enforce collection of any amount of fuel tax, penalty, or interest over and above the amount shown to be due by reports filed by a licensee except upon an assessment by the ~~department of-revenue~~ appropriate state agency as authorized in this chapter or unless brought within one year after the date of the assessment. No assessment shall be made covering any period beyond three years prior to the date of assessment.

Sec. 17. Section three hundred twenty-four point sixty-eight (324.68), Code 1977, is amended to read as follows:

324.68 POWER OF DEPARTMENT OF REVENUE OR THE STATE DEPARTMENT OF TRANSPORTATION TO CANCEL LICENSES. If a licensee shall at any time file a false monthly report of the data or information required by this chapter, or shall fail, refuse, or neglect to file a monthly report required by this chapter, or to pay the full amount of fuel tax as required by this chapter, then after ten days' written notice by registered mail directed to the last known address of the licensee setting a time and place at which ~~he~~ the person may appear and show cause why ~~his~~ the licensee's license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown by a preponderance of the evidence that the failure to correctly report or pay was with intent to evade the tax, the ~~department-of-revenue~~ appropriate state agency may cancel the license and shall notify the licensee of the cancellation by registered mail to ~~his~~ the licensee's last known address.

If a licensee shall at any time abuse the privileges for which the license was issued, fail to produce records reasonably requested ~~by-the-department-of-revenue,~~ or fail to extend reasonable co-operation to the ~~department~~ appropriate state agency, the licensee shall be advised in writing of

a hearing scheduled to determine if said license shall be canceled. The department appropriate state agency upon the presentation of a preponderance of evidence shall be allowed to cancel a license for cause.

Upon receipt of written request from any licensee the department-of-revenue appropriate state agency shall cancel the license of the licensee effective sixty days from the date of receipt of the request but no such license shall be canceled upon request unless and until the licensee shall, prior to the date of cancellation, have paid to the department of-revenue appropriate state agency all fuel taxes payable under this chapter, together with any and all penalties, interest and fines appertaining thereto. If, upon investigation, the department-of-revenue-shall-find appropriate state agency finds that a licensee is no longer engaged in the activities for which a license was issued ~~to him~~ and has not been so engaged for a period of six months, the department-of-revenue state agency shall cancel the license and give sixty days' notice of the cancellation mailed to the last known address of the licensee.

Sec. 18. Section three hundred twenty-four point sixty-nine (324.69), Code 1977, is amended to read as follows:

324.69 HEARINGS BEFORE DEPARTMENT OF REVENUE OR THE STATE DEPARTMENT OF TRANSPORTATION. Hearings before ~~the department of-revenue~~ a state agency authorized under the provisions of this chapter may be held at ~~the seat of government in Des Moines or elsewhere~~ a site in the state as the department of-revenue state agency may direct. The department-of-revenue state agency shall have the power to issue subpoenas including subpoenas duces tecum and to require the attendance of witnesses and the production of books, records and papers. In the event any person shall refuse to obey subpoena, or after appearing refuses to testify, the department-of-revenue state agency shall certify the name of the person to the district court of the county where the hearing is being held and the court shall proceed with the witness in the same manner as if the refusal had occurred in open court.

Sec. 19. Section three hundred twenty-four point seventy (324.70), Code 1977, is amended to read as follows:

324.70 DISCONTINUANCE OF LICENSED ACTIVITY--LIABILITY FOR TAXES AND PENALTIES. If a licensee ceases to engage in the state in activities for which ~~his~~ the person's license was issued or discontinues, sells, or transfers the business

in which he the person has carried on that activity he the licensee shall notify the department of revenue, which shall forward notice to the state department of transportation, in writing at least ten days prior to the time the cessation, discontinuance, sale or transfer takes effect. The notice shall give the date of proposed cessation or discontinuance, and, in the event of a proposed sale or transfer of the business, the date ~~thereof~~ and the name and address of the purchaser or transferee ~~thereof~~. All fuel taxes, penalties and interest under this chapter not yet due and payable shall, together with any and all interest accruing or penalties imposed under this chapter, ~~notwithstanding any provisions thereof~~ shall become due and payable concurrently with the cessation, discontinuances, sale or transfer, and ~~thereupon~~ it shall be the duty of the licensee to make a report and pay all the fuel taxes, interest, and penalties within ten days.

Sec. 20. Section three hundred twenty-four point seventy-one (324.71), Code 1977, is amended to read as follows:

324.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS. Any Except as provided in section three hundred twenty-four point fifty-four (324.54) of the Code, any person other than a distributor who has paid or has had charged to ~~his~~ the person's account with a distributor, dealer or special fuel dealer fuel taxes imposed under this chapter with respect to motor fuel or special fuel in excess of one hundred gallons, which is subsequently lost or destroyed, while ~~he shall be the person is the owner thereof,~~ through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown causes, the person shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, he the person shall notify the department of revenue in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, he the person shall file with the department of revenue an affidavit sworn to by the person having immediate custody of the motor fuel or special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information ~~with respect thereto~~ as the department of revenue may require.

Sec. 21. Section three hundred twenty-four point seventy-

four (324.74), subsection two (2), Code 1977, is amended to read as follows:

2. For any person to knowingly make any false, incorrect or materially incomplete record required to be kept or made under the provisions of this chapter, to refuse to offer his required books and records to the department of revenue or the state department of transportation for inspection on demand or to refuse to permit the department of revenue or the state department of transportation to examine his the person's motor fuel or special fuel storage tanks and handling or dispensing equipment.

Sec. 22. Section three hundred twenty-four point seventy-five (324.75), Code 1977 Supplement, is amended to read as follows:

324.75 PENALTY FOR FALSE CERTIFICATE. Any person who makes a false certificate, false fuel invoice, false fuel receipt, or false fuel sales ticket in any report, return, application, claim, or evidence required or provided for by this chapter or under any rule or regulation ~~made-by-the department-of-revenue~~ shall be guilty of a fraudulent practice.

Sec. 23. Section three hundred twenty-four point seventy-six (324.76), unnumbered paragraphs one (1) and two (2), Code 1977, are amended to read as follows:

Authority is ~~hereby~~ given to the department of revenue to enforce the provisions of this chapter except division three (III) of the Code, and sections 324.14 and 324.52. Employees of the department of revenue designated as enforcement ~~officers~~ employees shall have the power of peace officers in the performance of such duties.

Authority to enforce division three (III) of the Code, and sections 324.14 and 324.52, is given to the state department of transportation. Employees of the department of transportation designated enforcement ~~officers~~ employees shall have the power of peace officers in the performance of their duties; however, they shall not be considered members of the Iowa highway safety patrol. The department of transportation shall furnish enforcement ~~officers~~ employees with necessary equipment and supplies in the same manner as provided in section 80.18, including uniforms which are distinguishable in color and design from those of the Iowa highway safety patrol. Enforcement ~~officers~~ employees shall be furnished and shall conspicuously display badges of authority.

Sec. 24. Section three hundred twenty-four point seventy-

seven (324.77), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

All fees, taxes, interest and penalties imposed under this chapter must be paid to the department of revenue ~~in the form of remittances payable to the treasurer of state, and the department of revenue~~ or the state department of transportation, whichever is responsible for the collection. The appropriate state agency shall transmit each payment daily to the treasurer of state. Such payments shall be deposited by the treasurer of state in a fund, hereby created, within the state treasury which shall be known as the "motor fuel tax fund," the net proceeds of which fund, after deductions by lawful transfers and refunds, shall be known as the "motor vehicle fuel tax fund". The department of revenue and the state department of transportation shall certify monthly to the state comptroller amounts of refunds of tax approved ~~or determined by the department~~ during each month, and the state comptroller shall draw warrants in such amounts on the motor fuel tax fund and transmit them. There is hereby appropriated out of the money received under the provisions of this chapter and deposited in the motor fuel tax fund sufficient funds to pay such refunds as may be authorized in this chapter.

Sec. 25. Section three hundred twenty-four point eighty (324.80), Code 1977, is amended to read as follows:

324.80 MICROFILM OR PHOTOGRAPHIC COPIES--ORIGINALS DESTROYED. The ~~department of revenue~~ appropriate state agency shall have the power and authority to record, copy or reproduce by any photographic, photostatic, microfilm, microcard, miniature photographic or other process which accurately reproduces or forms a durable medium for so reproducing the original of any forms or records pertaining to motor fuel tax or special fuel tax, or any paper or document with respect to refund of such tax, and when such forms and records shall have been so reproduced, the ~~department of revenue~~ state agency shall have the power to destroy the originals and such reproductions shall be competent evidence in any court in accordance with the provisions of section 622.30.

Sec. 26.

1. All rules, forms, orders and directives promulgated by and in effect for the department of revenue on the effective date of this Act shall continue in full force and effect as rules, forms, orders and directives of the state department of transportation until amended or supplemented by affirmative action of the state department of transportation.

The state department of transportation shall promulgate rules to implement the provisions of this Act prior to June 30, 1979.

2. Any employee of the department of revenue whose duty assignments will be terminated because of this Act may be reassigned to other duties or may be transferred to the state department of transportation. The Iowa merit employment commission shall arbitrate and decide any written appeal made by any employee concerning any transfer, reassignment or reclassification made necessary by this Act.

3. The department of revenue and the state department of transportation shall begin to transfer the responsibilities, as provided in this Act, on July 1, 1978. The transfer of responsibilities shall be completed by June 30, 1979. The department of revenue and the state department of transportation are granted the discretion to transfer funds for salaries and support of those personnel functions transferred by this Act.

Sec. 27. The provisions of this Act shall become effective July 1, 1978 to provide for the transfer of duties prior to June 30, 1979.

Approved May 16, 1978

CHAPTER 1116
RAILROAD SPUR TRACKS
H. F. 2283

AN ACT relating to railroad spur tracks.

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

Section 1. Section three hundred twenty-seven G point sixty-one (327G.61), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. 3. "Spur track" means a railroad track located wholly within the state connected to a main or branch line of a railroad and used to originate or terminate traffic at one or more industries or a railroad track not subject to the jurisdiction of the interstate commerce commission. A spur track shall not include a railroad line used to provide line-haul or intercity transportation.

Sec. 2. Section three hundred twenty-seven G point sixty-

four (327G.64), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

327G.64 SPUR TRACKS.

1. Every railroad corporation may acquire, by condemnation or purchase, the necessary rights-of-way and may construct, connect, operate and maintain a reasonably adequate and suitable spur track if the construction and operation is not unsafe and is in the public interest.

2. Any party may make application to the board to require a railroad corporation to construct a spur track. The board shall consider the location, necessity and expense of such a track and other equitable considerations.

3. A railroad corporation or any other party may make application to the board for permission to discontinue service on or remove a spur track. The board shall consider the location, necessity and expense of maintaining such track and other equitable considerations. The board may order the railroad company to discontinue service or remove the spur track, and may allocate the cost of removal between the parties in an equitable manner.

4. Any action commenced under the provisions of subsection two (2) or three (3) of this section shall be completed within one year from the effective date of the board order. The board shall make a final determination of any action commenced under subsection two (2) or three (3) of this section within one year from the date of the application.

Sec. 3. The provisions of this Act shall become effective January 1, 1979.

Approved April 17, 1978

CHAPTER 1117
AIR TRANSPORTATION
S. F. 2169

AN ACT relating to air transportation regulation.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred eight (108), section two (2), is amended to read as follows:

SEC. 2. Section three hundred twenty-eight point twelve (328.12), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Commuter air carrier demonstration projects. The department may encourage the development of commuter air carrier service in the state by:

a. Recommending routes between cities that may support such service.

b. Making available funding for demonstration projects from any federal funds made available to the state or from any state funds appropriated for such purposes. ~~Nothing in this subsection shall be construed to permit moneys appropriated to the state department of transportation to be expended to develop or assist in the development of commuter air carrier service in this state.~~

c. Establishing specifications, operational requirements, terms and conditions under which demonstration projects will be participated in by the state.

Sec. 2. Section three hundred twenty-eight point twelve (328.12), subsection twelve (12), Code 1977, is amended to read as follows:

12. SUFFICIENCY RATINGS. It shall issue sufficiency ratings for all airports in the state, which are owned and operated by a governmental subdivision, based on the functional classification of those airports as set out in the department's annual transportation plan.

Sec. 3. Section three hundred twenty-eight point twenty-one (328.21), Code 1977, is amended to read as follows:

328.21 AIRCRAFT REGISTRATION FEES. There shall be paid to the department at the time of such registration an annual registration fee for each such aircraft, to be computed as follows:

1. ~~For~~ Unless otherwise provided in this section, for the first registration, a sum equal to one and one-half percent of the manufacturer's list price of the aircraft.

2. After said aircraft has been registered once the registration fee shall be seventy-five percent of the rate as fixed for the first registration; after two times fifty percent; and after three times twenty-five percent; provided, however, that no aircraft shall be registered for a registration fee of less than ~~ten~~ fifteen dollars.

3. Where there is no delinquency and the registration is made in August or succeeding months to and including May, the fee shall be computed on the basis of one-twelfth of the annual registration fee multiplied by the number of the unexpired months of the year and said amount shall be the fee collected. No fee shall be required for the month of

June for a new aircraft, in good faith delivered in that month, providing said aircraft is registered at the time of purchase for the following year.

4. The registration fee for an aircraft operated in scheduled interstate airline operation, owned by an Iowa person and operated part-time within this state shall be a fee of ~~ten~~ thirty-five dollars ~~each-for-the-first-two-years-of-registration-and-thereafter-a-sum-equal-to-a-percentage-of-the-aircraft-registration-fee-hereinbefore-provided-for-in-subsections-2-and-3-of-this-section, which percentage shall be computed by dividing the total number of hours during which said aircraft is operated within this state by the total number of hours during which said aircraft is operated in scheduled interstate airline operation.~~ ~~The full registration fee shall be paid at the beginning of the registration period and adjustment and refund shall be made by the department following the close of the registration period upon application therefor by the person in whose name the aircraft was registered,~~ ~~said.~~ The application to for registration shall be supported by such records as the department shall prescribe.

5. Should the department find and determine that no established manufacturer's list price exists for any such aircraft the department is hereby authorized and empowered to ~~thereupon~~ determine and fix the fair value of such aircraft which fair value shall be used in lieu of a manufacturers' list price in computing the registration fee for each such aircraft as otherwise provided by this section.

When the fee as so computed results in a fractional part of a dollar, it shall be computed to the nearest quarter of a dollar.

6. Any aircraft thirty years old, or older, which is used exclusively for noncommercial purposes shall be registered as an antique aircraft for a registration fee of fifteen dollars.

Sec. 4. Section three hundred twenty-eight point forty-one (328.41), unnumbered paragraph four (4), Code 1977, is amended by striking the unnumbered paragraph.

Approved April 13, 1978

CHAPTER 1118

COUNTY OFFICERS AND EMPLOYEES TRAVEL EXPENSES

S. F. 404

AN ACT relating to payment of travel expenses of county officers and employees.

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

Section 1. Section three hundred thirty-one point twenty-two (331.22), Code 1977, is amended to read as follows:

331.22 COMPENSATION OF SUPERVISORS. The board of supervisors shall receive an annual salary or per diem compensation as provided in section 340A.6. The annual salary or per diem shall be in full payment for all services rendered to the county except that each member of the board is entitled to reimbursement for mileage expense incurred while engaged in the performance of official duties at the same rate as provided by law for state employees. The total mileage expense for a member of the board of supervisors shall not exceed one thousand five hundred dollars per year unless the board of supervisors by resolution adjusts the maximum amounts payable to each of the members, but in any event the aggregate amount of mileage expense for all members shall not exceed the product of one thousand five hundred dollars multiplied by the total number of members of the board of supervisors.

Sec. 2. Section three hundred forty-three point twelve (343.12), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

NEW SECTION. County officers, deputies and employees may attend educational seminars, short courses, schools of instruction or other educational activities related to the performance of their duties, and be reimbursed for mileage and actual expenses incurred where approved by the department head and the board of supervisors as provided in section three hundred thirty-one point twenty-one (331.21) of the Code. For the purpose of this section mileage expense received by supervisors shall be in addition to that provided by section three hundred thirty-one point twenty-two (331.22) of the Code.

The board of supervisors may provide reimbursement for actual expense incurred by members of boards and commissions appointed by the board for attendance at training functions

in the discharge of their official duties. The board of supervisors shall designate the fund from which reimbursement is to be made.

The board of supervisors after consulting with the other elected county officers, shall adopt a training reimbursement policy. The policy shall give priority to attendance at training functions conducted at the local level.

Approved April 21, 1978

CHAPTER 1119
COUNTY ATTORNEYS

H. F. 2164

AN ACT relating to the status and salaries of full-time or part-time county attorneys and assistant county attorneys.

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

Section 1. Chapter three hundred thirty-two (332), Code 1977, is amended by adding sections two (2) through five (5) of this Act.

Sec. 2. NEW SECTION. FULL-TIME OR PART-TIME COUNTY ATTORNEYS. A county may provide that the county attorney shall be a full-time or part-time county officer in the manner provided in this Act. A full-time county attorney shall refrain from the private practice of law.

Sec. 3. NEW SECTION. RESOLUTION--EFFECTIVE DATE.

1. The board of supervisors may provide, by resolution at any regular meeting after at least fourteen days public notice, that the county attorney shall be a full-time county officer. The resolution shall include an effective date which shall not be less than sixty days from the date of adoption. However, if the county attorney or county attorney-elect objects to the full-time status, the effective date of the change to a full-time status shall be delayed until January first of the year following the next general election at which a county attorney is elected. A resolution changing the status of the county attorney shall not be adopted between March first and the date of the general election of the year in which the county attorney is regularly elected as provided in section thirty-nine point seventeen (39.17) of the Code.

2. The resolution changing the status of the county attorney shall state the annual salary to be paid to the full-time county attorney. Notwithstanding section three hundred forty A point six (340A.6) of the Code, the board of supervisors shall adopt an annual salary for the county attorney which is between forty-five and one hundred percent of the annual salary received by a district court judge.

Sec. 4. NEW SECTION. PART-TIME COUNTY ATTORNEYS.

1. The board of supervisors of a county may change the status of a full-time county attorney to a part-time county attorney by following the same procedures as provided in section three (3) of this Act. If the incumbent county attorney objects to the change in status, the change shall be delayed until January first following the next election of a county attorney.

2. The resolution changing the status of a full-time county attorney to a part-time county attorney shall state the annual salary to be paid to the part-time county attorney.

Sec. 5. NEW SECTION. CURRENT STATUS UNAFFECTED. The provisions of this Act shall not affect the full-time or part-time status of a county attorney that is in effect on the effective date of this Act, but any subsequent change in the full-time or part-time status of the county attorney shall be made as provided in section three (3) or four (4) of this Act, as applicable.

Sec. 6. Section three hundred forty point ten (340.10), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

340.10 ASSISTANT COUNTY ATTORNEY. The annual salary of each assistant county attorney shall be determined by the county attorney within the budget set for the county attorney's office by the board of supervisors. The salary of an assistant county attorney shall not exceed eighty-five percent of the maximum salary of a full-time county attorney.

The county attorney shall inform the board of supervisors of the full-time or part-time status of each assistant county attorney. In the case of a part-time assistant county attorney, the county attorney shall inform the board of supervisors of the approximate number of hours per week the person shall devote to his or her duties as assistant county attorney.

Sec. 7. Section three hundred forty-one point nine (341.9), Code 1977, is amended to read as follows:

341.9 FULL-TIME COUNTY PROSECUTORS. ~~In counties having~~

~~a-population-in-excess-of-one-hundred-fifty-thousand, the~~
The county attorney may appoint, with the approval of the board of supervisors, assistant county attorneys to serve as full-time prosecutors who shall refrain from the private practice of law. The compensation paid to such assistant county attorneys shall not be subject to the provisions of section 340.40 be determined by the county attorney within the budget set for the county attorney's office by the board of supervisors. The salary of an assistant county attorney shall not exceed eighty-five percent of the maximum salary of a full-time county attorney.

Sec. 8. Section three hundred thirty-six point one (336.1), Code 1977, is amended to read as follows:

336.1 QUALIFICATIONS. County attorneys shall be qualified electors of their respective counties, duly admitted to practice as attorneys and counselors in the courts of this state as provided by law. However, if the boards of supervisors of two or more counties enter into an agreement to share the services of a county attorney as authorized by this chapter, the county attorney shall be a qualified elector of one of the counties that he or she serves. No person shall be qualified for such office while ~~his~~ the person's license to practice remains revoked or suspended.

Sec. 9. Chapter three hundred thirty-six (336), Code 1977, is amended by adding the following new section:

NEW SECTION. AUTHORIZATION TO SHARE THE SERVICES OF A COUNTY ATTORNEY--ELECTION. The boards of supervisors of two or more counties may enter into an agreement pursuant to chapter twenty-eight E (28E) of the Code to share the services of a county attorney.

A county attorney who will serve two or more counties pursuant to an agreement authorized by this section shall be elected by a majority of the votes cast for the office of county attorney in all of the counties which the county attorney will serve pursuant to the agreement. The election shall be held in accordance with section forty-seven point two (47.2), unnumbered paragraph two (2), of the Code.

If an agreement is entered into pursuant to this section, its effective date shall be delayed until January first of the year following the next general election at which a county attorney is elected in the manner provided by this section.

Approved June 20, 1978

CHAPTER 1120

REPAIR OR CONSTRUCTION OF COUNTY BUILDINGS

S. F. 2107

AN ACT relating to contract and bidding procedures for the repair or construction of county buildings.

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

Section 1. Section three hundred thirty-two point seven (332.7), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

332.7 CONTRACT AND BID REQUIREMENTS--EMERGENCY REPAIRS.

1. If the probable cost of constructing or repairing a county building will exceed five thousand dollars, the county building shall be constructed or repaired only after bid proposals for the construction or repair have been invited by advertisement once each week for three consecutive weeks in all of the official newspapers of the county in which the work is to be done and under an express written contract. The detailed plans and specifications for such improvements shall be on file and open to public inspection in the office of the auditor of the county in which the work is to be done before advertisement for bids.

2. If the probable cost of constructing or repairing a county building will not exceed five thousand dollars, the county building shall be constructed or repaired under an express written contract awarded through the formal bidding procedures specified in subsection one (1) of this section or through informal bidding procedures by notifying in writing at least three qualified bidders at least two weeks before letting the contract, except for repairs specified in subsection three (3) of this section. The informal bids received and a statement of the reasons for use of the informal procedure and bid acceptance shall be entered in the minutes of the meeting of the board of supervisors at which such action is taken.

3. The provisions of subsections one (1) and two (2) of this section shall not apply to the repair costs of a county building which do not exceed five hundred dollars or to costs for emergency repairs not exceeding two thousand dollars which are necessary to prevent further damage to a building and which reasonably cannot be delayed in compliance with the

time requirements of the formal or informal bidding and contracting procedures provided for in this section. The minutes of the meeting of the board of supervisors at which expenditures for such repairs are approved shall contain a statement explaining the need for such repairs and the reasons why the formal and informal bidding and contracting procedures specified in this section could not be followed.

4. Each contract for the repair or construction of a county building shall be awarded to the lowest responsible bidder at a time and place which shall be stated in any advertisement or written notice required under subsection one (1) or two (2) of this section. On the day specified for the awarding of a contract, the board of supervisors may adjourn the proceedings to a later time and place, of which all parties shall take notice. The board of supervisors may reject all bids and advertise or give notice for new bids as provided in this section.

Approved June 2, 1978

CHAPTER 1121

ERRORS AND OMISSIONS INSURANCE

H. F. 2246

AN ACT extending liability and errors and omissions insurance to appointed county officers, township trustees, and employees of the township.

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

Section 1. Section three hundred thirty-two point thirty-six (332.36), Code 1977, is amended to read as follows:

332.36 COUNTY INDEMNIFICATION FUND IN STATE TREASURY. There is created in the office of the treasurer of state a fund to be known as "the county indemnification fund" to be used to indemnify and pay on behalf of any ~~elected~~ county officer, any township trustee and any deputies, assistants or employees of the county or the township, all sums that such officers, deputies, assistants or employees are legally obligated to pay because of their errors or omissions in the performance of their official duties, except that the first five hundred dollars of each such claim shall not be paid from this fund.

Sec. 2. Section three hundred thirty-two point forty (332.40), Code 1977, is amended to read as follows:

332.40 CLAIMS PAID. Any claim for any error or omission of any ~~elected~~ county officer, any township trustee or any deputy, assistant or employee of the county or the township relating to such matters, committed after ~~July-17-1975~~ July 1, 1978, shall be processed in accordance with provisions of chapter 613A and paid from such fund, except that any payment of a claim, except a final judgment, in excess of fifteen hundred dollars shall have the unanimous approval of all members of the state appeal board, the attorney general, and the district court of Polk county.

Sec. 3. Section three hundred thirty-two point forty-one (332.41), Code 1977, is amended to read as follows:

332.41 INSURANCE DEDUCTIBLE. If a final judgment is obtained against any ~~elected~~ county officer, any township trustee, or any deputies, assistants, or employees of the county or the township for an act committed subsequent to ~~July-17-1975~~ July 1, 1978, which is payable from the county indemnification fund, the county attorney shall ascertain if any insurance policy exists indemnifying such persons against such judgment or any part thereof. If no insurance exists, or if the judgment exceeds the limits of such insurance the county attorney shall submit a claim to the state comptroller against the county indemnification fund on behalf of the plaintiff to the action for the amount of the judgment exceeding the amount recoverable by reason of such insurance. The state comptroller shall promptly issue a warrant payable to the plaintiff for such amount, and the treasurer of state shall pay the warrant. Such payment shall forever discharge such persons from any and all liability therefor.

Approved June 5, 1978

CHAPTER 1122

PUBLIC IMPROVEMENTS IN COUNTIES

S. F. 2118

AN ACT granting counties the authority to acquire and finance certain public improvements.

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

Section 1. Chapter three hundred thirty-two (332), Code 1977, is amended by adding the following new section:

NEW SECTION. CERTAIN PUBLIC IMPROVEMENTS AUTHORIZED.

1. In addition to the powers and duties otherwise provided in this chapter, a county may plan, establish, own, acquire by purchase, condemnation or otherwise, lease, sell, construct, reconstruct, extend, remodel, improve, repair, equip, maintain, operate, issue bonds or otherwise finance works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner, for the collection and disposal of solid waste, for the collection and disposal of surface waters and streams, and for waterworks utilities in the same manner as a city may exercise such powers under divisions three (III), five (V) and six (VI) of chapter three hundred eighty-four (384) of the Code. A public improvement authorized under this subsection shall not be financed by a special assessment.

2. In exercising the powers granted under subsection one (1) of this section, the board of supervisors shall be considered the governing body, acting by resolution, and the board shall substantially comply with the procedural requirements of divisions three (III), five (V) and six (VI) of chapter three hundred eighty-four (384) of the Code.

3. Chapters twenty-three (23), three hundred forty-five (345), and three hundred forty-six (346) of the Code shall not apply to counties in the exercise of their powers authorized under this section.

Approved June 12, 1978

CHAPTER 1123
INFANT SUDDEN DEATH SYNDROME

H. F. 33

AN ACT to require autopsies of children under the age of two years when the circumstances of death indicate that sudden infant death syndrome may be the cause of death, to require that the results of such autopsies be transmitted to a parent, to provide that the state shall pay for these autopsies, and making an appropriation.

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

Section 1. Section three hundred thirty-nine point six (339.6), Code 1977, is amended by adding the following new numbered subsection:

NEW SUBSECTION. 10. Death of a child under the age of two years when death results from an unknown cause or when the circumstances surrounding the death indicate that sudden infant death syndrome may be the cause of death.

Sec. 2. Section three hundred thirty-nine point seven (339.7), Code 1977, is amended as follows:

339.7 Investigation by county examiner. The county medical examiner shall investigate each death occurring in the manner specified in section 339.6, and report each case to the state medical examiner. The county medical examiner shall conduct such investigation as may be required by the state medical examiner and shall determine whether or not the public interest requires an autopsy or other special investigation. However, if the death occurred in the manner specified in section

[three hundred thirty-nine point six]*(339.6), [subsection ten]* (10) the county medical examiner shall order an autopsy and shall be reimbursed for expenses incurred by the department of health. In his determination of the need for an autopsy, the county medical examiner may consider the request for an autopsy made by private persons or public officials, except that the state medical examiner or the county attorney of the county where the death occurred may require an autopsy.

Sec. 3. Section three hundred thirty-nine point eight (339.8), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. A summary of the findings resulting from an autopsy of a child under the age of two years whose death resulted from an unknown cause or whose death was surrounded by circumstances which indicate that sudden infant death

*Words supplied by Code editor pursuant to section 3.1, subsection 3 of the Code.

syndrome may have been the cause of death shall be transmitted immediately by the physician who performed the autopsy to the county medical examiner for forwarding to the parent, guardian or custodian of the child via the infant's attending physician or the county examiner or his or her designee. A copy of the autopsy report filed with the county attorney shall be available to the parents, guardian or custodian upon request.

*** Sec. 4. There is appropriated from the general fund to the department of health for the fiscal period beginning January 1, 1978 and ending June 30, 1978, the sum of fifteen thousand (15,000) dollars, or so much thereof as may be necessary, for the purpose of reimbursing counties for expenses resulting from autopsies of suspected victims of sudden infant death syndrome.***

***Item veto

Approved April 26, 1978, except the item designated as Sec. 4 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit House File 33, an act to require autopsies of children under the age of two years when the circumstances of death indicate that Sudden Infant Death Syndrome may be the cause of death, to require that the results of such autopsies be transmitted to a parent, to provide that the State shall pay for these autopsies, and making an appropriation.

House File 33 is approved April 26, 1978, with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 4 which reads as follows:

Sec. 4. There is appropriated from the general fund to the department of health for the fiscal period beginning January 1, 1978 and ending June 30, 1978, the sum of fifteen thousand (15,000) dollars, or so much thereof as may be necessary, for the purpose of reimbursing counties for expenses resulting from autopsies of suspected victims of sudden infant death syndrome.

While the \$15,000 appropriation contained in this section is for a very appropriate purpose--that of reimbursing counties for the expenses they incur because of the bill--it will be of no practical benefit to anyone. That is because of a mix-up in the timing of the appropriation.

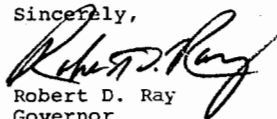
House File 33 was introduced in the 1977 session of the legislature in a form that presumed it would be passed in 1977 and become effective July 1, 1977. The authors of the bill made the appropriation available for the period beginning January 1, 1978, and ending June 30, 1978.

Since House File 33 did not receive final passage in 1977, it was held over and passed in the 1978 session. Unfortunately the appropriation was not updated to reflect the new effective date of the bill, July 1, 1978. Therefore, we end up with the ironic situation that the appropriation will expire the day before the bill becomes effective. Hence, none of the appropriation may be used for its intended purpose.

The legislature has taken quick action to make sure that this situation does not occur. Funds have been appropriated in Senate File 2241 and House File 2440 for reimbursement to counties for expenses resulting from autopsies of suspected victims of the Sudden Infant Death Syndrome during the fiscal year ending in 1979. We fully expect the bill to receive final passage and be sent to the Governor for approval. Once that is accomplished, we will have funding for this important program.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of House File 33 are hereby approved this date.

Sincerely,



Robert D. Ray
Governor

CHAPTER 1124

COUNTY REAL ESTATE PROJECTS SUBMISSION TO VOTERS

H. F. 2227

AN ACT increasing the dollar limit of real estate projects for which a proposition need not be submitted to electors in the case of federal revenue sharing or matching funds and funds on hand in all counties except counties having a population of more than two hundred thousand, and permitting use of federal revenue sharing funds and federal grants and county funds for the purpose of courthouse remodeling in counties having a population of more than two hundred thousand.

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

Section 1. Section three hundred forty-five point one (345.1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred eleven (111), section one (1), is amended to read as follows:

345.1 EXPENDITURES--WHEN VOTE NECESSARY. The board of supervisors shall not order the erection of, or the building of an addition or extension to, or the remodeling or

reconstruction or relocation and replacement of a courthouse, jail, county hospital, county care facility or any other county building or facility, except as otherwise provided, when the probable cost will exceed ten thousand dollars, nor the purchase of real estate for county purposes exceeding ten thousand dollars in value, until a proposition therefor shall have been first submitted to the qualified electors of the county, and voted for by a majority of all persons voting for and against such proposition at a general or special election, notice of the same being given as in other special elections. However, such proposition need not be submitted to the voters if any such erection, construction, remodeling, reconstruction, relocation and replacement, or purchase of real estate may be accomplished from funds on hand or from federal revenue-sharing funds or federal matching funds and without the levy of additional taxes and if the probable cost of the entire project will not exceed ~~one~~ two hundred thousand dollars in a county having a population of twenty-five thousand or less, ~~one~~ two hundred fifty thousand dollars in counties having a population of more than twenty-five thousand but not more than fifty thousand, ~~two~~ three hundred thousand dollars in counties having a population of more than fifty thousand but not more than one hundred thousand, ~~two-hundred~~ fifty four hundred thousand dollars in counties having a population of more than one hundred thousand but not more than two hundred thousand, and five hundred thousand dollars in counties having a population of more than two hundred thousand. If a county project should be determined to cost in excess of the dollar limitation for the population category of such county, the proposition must be submitted to the qualified electors of the county without regard to the source from which such funds may be derived. However a proposition need not be submitted to the qualified electors to expend federal revenue-sharing funds for a mental health or mental retardation project, or when specific projects using federal funds other than federal revenue-sharing funds, not requiring any matching funds are approved for a county, or when a relocation and replacement is made necessary by the acquisition of county property for a federal or state project, and the cost of the relocation does not exceed the amount of the award of damages by the state or federal government, or to expend federal revenue sharing funds for courthouse remodeling when the courthouse is located in a county having a population

of more than two hundred thousand, or a combination of federal revenue sharing funds and federal funds other than federal revenue sharing funds requiring less than fifteen percent county matching funds are used for the project. When the expenditures authorized in this section exceed fifty thousand dollars and the proposition need not be submitted to the voters, the board of supervisors shall hold a public hearing on the proposition. Notice of the hearing shall be published at least two weeks prior to the hearing, in the newspaper published in the county having the largest circulation in the county. In determining whether the expenditure should be made, the board of supervisors shall give full consideration to the testimony given during the hearing.

Approved April 27, 1978

CHAPTER 1125

REFRACTORY PRISONERS

S. F. 2042

AN ACT removing a sheriff's authorization to chain a disorderly prisoner in a jail and a sheriff's authorization to feed a prisoner only bread and water.

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

Section 1. Section three hundred fifty-six point fourteen (356.14), Code 1977, is amended to read as follows:

356.14 REFRACTORY PRISONERS. If any person confined in a jail is refractory or disorderly, or willfully destroys or injures any part thereof or of its contents, the sheriff may ~~chain-or~~ secure such person, or cause him or her to be kept in solitary confinement, not more than ten days for any one offense, during which time ~~he~~ the person may be fed ~~with bread-and-water-only,~~ minimum diet requirements as established by the department of social services unless other food is necessary for the preservation of ~~his~~ the person's health.

Approved April 13, 1978

CHAPTER 1126

COUNTY LIBRARY DISTRICT—CITY WITHDRAWAL

H. F. 79

AN ACT relating to the withdrawal of a city from a county library district.

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

Section 1. Section three hundred fifty-eight B point sixteen (358B.16), Code 1977, is amended to read as follows:

358B.16 WITHDRAWAL OF CITY FROM DISTRICT. A city may withdraw from the county library district ~~by-giving-notice~~ upon a majority vote in favor of withdrawal by the electorate of the city in an election held on a motion by the city council. The election shall be held simultaneously with a general or city election. Notice of a favorable vote to withdraw shall be sent by certified mail to the board of library trustees of the county library and the county auditor prior to January 40 tenth, and ~~on-that-date-shall-cess-to~~ ~~be-a-part-of-or-included-in-the-county-library-district~~ the withdrawal shall be effective on July first.

Approved May 5, 1978

CHAPTER 1127

CITY DEVELOPMENT BOARD

S. F. 2221

AN ACT relating to city development by clarifying the definition of territory, defining qualified elector, requiring the city development board to be notified of annexation moratorium agreements and hearings, and allowing a property owner under certain circumstances to serve on the city development committee even though he or she is not a qualified elector.

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

Section 1. Section three hundred sixty-eight point one (368.1), subsection ten (10), Code 1977, is amended to read as follows:

10. "Territory" means the land area or areas proposed to be incorporated, annexed, or severed, whether or not contiguous to all other areas proposed to be incorporated,

annexed, or severed.

Sec. 2. Section three hundred sixty-eight point one (368.1), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. "Qualified elector" means a person who is registered to vote pursuant to chapter forty-eight (48) of the Code.

Sec. 3. Section three hundred sixty-eight point four (368.4), Code 1977, is amended to read as follows:

368.4 ANNEXING MORATORIUM. A city, following notice and hearing, may by resolution agree with another city or cities to refrain from annexing specifically described territory for a period not to exceed ten years and, following notice and hearing, may by resolution extend the agreement for subsequent periods not to exceed ten years each. Notice of a hearing shall be served on the board, and a copy of the agreement and a copy of any resolution extending an agreement shall be filed with the board within thirty days of enactment. If such an agreement is in force, the board shall dismiss a petition or plan which violates the terms of the agreement.

Sec. 4. Section three hundred sixty-eight point fourteen (368.14), subsection three (3), Code 1977, is amended to read as follows:

3. From a territory to be annexed to or severed from a city, one representative appointed by the county board of supervisors. If there are no qualified electors residing in an area to be annexed to or severed from a city, the county board of supervisors shall appoint as local representative an individual owning property in the territory whether or not he or she is a qualified elector or appoint a designee of such individual.

Approved June 5, 1978

CHAPTER 1128

CITY DEVELOPMENT

S. F. 356

AN ACT relating to city development by changing the number of local representatives appointed when a petition for boundary adjustment involves territory in more than one county, clarifying the publication requirements for notice of election results, and allowing chapter three hundred sixty-eight (368) of the Code to prevail over chapter seventeen A (17A) of the Code in certain instances.

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

Section 1. Section three hundred sixty-eight point fourteen (368.14), unnumbered paragraph one (1) and subsections three (3) and four (4), Code 1977, are amended to read as follows:

If a petition is not dismissed, the board shall direct the appointment of local representatives to serve with board members as a committee to consider the proposal. Each local representative is entitled to receive from the state his or her actual and necessary expenses spent in performance of committee duties. Two board members and one local representative, or if the number of local representatives exceeds one, two board members and at least one-half of the appointed local representatives, are required for a quorum of the committee. A local representative must be a qualified elector of the territory or city he or she represents, and must be selected as follows:

3. From a territory to be annexed to or severed from a city, one representative appointed by the county board of supervisors. If the territory is in more than one county, the board shall direct the appointment of a local representative from each county involved by its board of supervisors.

4. From a city to which territory is to be annexed or from which territory is to be severed, one representative appointed by the city council. If the territory is in more than one county, the board shall direct the appointment of an equal number of city and county local representatives.

Sec. 2. Section three hundred sixty-eight point twenty-two (368.22), unnumbered paragraphs two (2) and four (4), Code 1977, are amended to read as follows:

Appeal must be filed within thirty days of the filing of

a decision or the ~~second~~ publication of notice of the result of an election.

The judicial review provisions of this section and chapter seventeen A (17A) of the Code shall be the exclusive means by which a person or party who is aggrieved or adversely affected by agency action may seek judicial review of that agency action. The court's review on appeal of a decision is limited to questions relating to jurisdiction, regularity of proceedings, and whether the decision appealed from is arbitrary, unreasonable, or without substantial supporting evidence. The court may reverse and remand a decision of the board or a committee, with appropriate directions. The following portions of section seventeen A point nineteen (17A.19) of the Code are not applicable to this chapter:

1. The part of subsection two (2) which relates to where proceedings for judicial review shall be instituted.

2. Subsection five (5).

3. Subsection eight (8).

Sec. 3. This Act is effective January 1, 1979.

Approved June 26, 1978

CHAPTER 1129

AGRICULTURAL AND HORTICULTURAL LAND IN CITIES TAXED

H.F. 2035

AN ACT relating to the taxation of property used for agricultural and horticultural purposes and located within the corporate limits of a city and making the provisions of this Act retro-active.

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

Section 1. Section three hundred eighty-four point one (384.1), Code 1977, is amended to read as follows:

384.1 TAXES CERTIFIED. A city may certify taxes to be levied by the county on all taxable property within the city limits, for all city government purposes. However, the tax levied by a city on ~~lots-of-more-than-ten-acres-and-the personal-property-thereon,-occupied-and~~ tracts of land and improvements thereon used and assessed for agricultural or horticultural purposes, may not exceed ~~thirty-three-and-three-fourths~~ three dollars and three-eighths cents per thousand dollars of assessed value in any year. Improvements and personal property located on such tracts of land and not used

for agricultural or horticultural purposes and all residential dwellings shall be subject to the same rate of tax levied by the city on all other taxable property within the city.

A city's tax levy for the general fund may not exceed eight dollars and ten cents per thousand dollars of taxable value in any tax year, except for the levies authorized in section 384.12.

Sec. 2. Section three hundred eighty-four point sixty-two (384.62), Code 1977, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A special assessment for a public improvement against a tract of land used and assessed as agricultural property shall not become payable upon the filing of a request by the owner for deferment until that land is not used and assessed as agricultural property. At the time of the change in the use of the property, the special assessment shall become payable in the same manner as the special assessment would have become payable had it not been deferred by this section. This section shall not apply to a tract of land of less than one-quarter acre surrounding any dwelling or nonfarm structure on that tract nor shall it apply to a special assessment levied before the effective date of this Act. This section shall not apply if the public improvement is a sewer, water, gas or electrical line to which the owner of the land makes a connection.

NEW UNNUMBERED PARAGRAPH. Payment of installments of special assessments for a public improvement against property used and assessed as agricultural property shall be deferred as follows:

1. The property owner who seeks deferment of an assessment shall file a written request for deferment with the city clerk at the time of the hearing on the resolution of necessity for the public improvement or within ten days following the date of the hearing and the request shall identify those lots subject to proposed assessments for which the property owner is seeking deferment which are used and assessed as agricultural property. The request may be withdrawn by the property owner at any time before or after the adoption of the resolution of necessity.

2. The city shall indicate those lots for which a deferment has been requested on the special assessment schedule.

3. After the assessments for the public improvement have been levied and the special assessment schedule has been filed with the county auditor, the county auditor shall indicate

on the tax rolls those assessments subject to deferment under this section.

4. An owner of property subject to an assessment that may be deferred may file a statement at any time up to six months before the assessment installment is due stating that a written request for deferment of such assessments is filed with the city clerk and that the entire lot subject to such assessment has continued to be and is still used and assessed as agricultural property. The collection of that installment and any other unpaid portion of the assessment shall be deferred until the next July first and subsequent installments may thereafter be deferred in the same manner for successive years in which a statement is filed.

Sec. 3. The provisions of section one (1) of this Act are retroactive to January 1, 1978 for property valued and assessed on or after January 1, 1978 and to this extent the provisions of section one (1) of this Act are retroactive.

Sec. 4. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in *The Aurelia Sentinel*, a newspaper published in Aurelia, Iowa, and in *The Sioux City Journal*, a newspaper published in Sioux City, Iowa.

Approved June 2, 1978

I hereby certify that the foregoing Act, House File 2035, was published in *The Aurelia Sentinel*, Aurelia, Iowa on June 14, 1978, and in *The Sioux City Journal*, Sioux City, Iowa on July 2, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1130

CITY FINANCES AND DELINQUENT TAX DATE

S. F. 2151

AN ACT relating to city finances by altering the composition and duties of the city finance committee and modifying the date on which property taxes become delinquent and when interest as a penalty may be charged.

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

Section 1. Section three hundred eighty-four point three (384.3), Code 1977, is amended to read as follows:

384.3 GENERAL FUND. All moneys received for city government purposes from taxes and other sources must be credited to the general fund of the city, except that moneys

received for the purposes of the debt service fund, the trust and agency ~~fund funds~~, the capital improvements reserve fund, the emergency fund and other funds established by state law must be deposited as otherwise required or authorized by state law. All moneys received by a city from the federal government must be reported to the ~~office-for-planning-and-programming~~ state comptroller who shall transmit a copy to the legislative fiscal bureau.

Sec. 2. Section three hundred eighty-four point six (384.6), subsection one (1), Code 1977, is amended to read as follows:

1. Accounting for pension and related employee benefit funds as provided by the city finance committee. A city may certify taxes to be levied for the trust and agency fund in the amount necessary to meet such obligations.

Sec. 3. Section three hundred eighty-four point thirteen (384.13), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

As used in this division, unless the context otherwise requires, "committee" means the city finance committee. A ~~nine-ten~~^{*} member city finance committee is hereby created. Members of the committee are:

Sec. 4. Section three hundred eighty-four point thirteen (384.13), subsections three (3) and four (4), Code 1977, are amended to read as follows:

3. A ~~representative-of-the-division-of-municipal-affairs within-the-office-for-planning-and-programming, to-be designated-by-the-director-of-the-office-for-planning-and programming~~ designee of the governor.

4. ~~Four~~ Five city officials who are regularly involved in budget preparation. One official must be from a city with a population of ~~at-least-two-thousand-but~~ not over ~~five two~~ thousand five hundred, one from a city with a population of over ~~five two~~ thousand five hundred but not over fifteen thousand, one from a city with a population of over fifteen thousand but not over fifty thousand, ~~and~~ one from a city with a population of over fifty thousand and one from any size city. The governor shall select and appoint, with the approval of two-thirds of the members of the senate, the city officials.

Sec. 5. Section three hundred eighty-four point fifteen (384.15), subsection one (1), Code 1977, is amended to read as follows:

*According to enrolled Act

1. Promulgate rules relating to budget amendments and the procedures for transferring moneys between funds, and other rules necessary or desirable in order to exercise its powers and perform its duties, including rules necessary to implement section three hundred eighty-four point six (384.6), subsection one (1), of the Code. The committee's rules are subject to chapter 17A as applicable.

Sec. 6. Section three hundred eighty-four point fifteen (384.15), Code 1977, is amended by striking subsections three (3), four (4) and five (5) and inserting in lieu thereof the following:

3. Establish guidelines for program budgeting and accounting and the preparation of five-year capital improvement plans. A city shall hold a public hearing on its capital improvement plan before adoption of the plan. The committee may require performance budgeting. It shall, where practicable, use recommendations of the national council on governmental accounting.

4. Review and comment on city budgets to city officials and provide assistance to enable cities to improve upon and use sound financial procedures.

5. Conduct studies of municipal revenues and expenditures.

Sec. 7. Section three hundred eighty-four point fifteen (384.15), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Advise and make recommendations annually to the governor and the general assembly concerning city budgets and finance.

Sec. 8. Section four hundred forty-five point thirty-seven (445.37), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, if there is a delay of the certification of the tax list to the county treasurer, the amount due shall become delinquent thirty days after such date of certification or October first, whichever date occurs later. However, such delay shall not affect the due and delinquent dates for special assessments specified by section three hundred eighty-four point sixty-five (384.65) of the Code.

Sec. 9. Section four hundred forty-five point thirty-nine (445.39), Code 1977, is amended to read as follows:

445.39 INTEREST AS PENALTY. If the first installment of taxes shall not be paid by ~~October 4~~ the delinquent date specified in section four hundred forty-five point thirty-

seven (445.37) of the Code, said installment shall become due and draw interest, as a penalty, of one percent per month until paid, from ~~October-4~~ such delinquent date following the levy; and if the last half shall not be paid by April 4 first following such levy, then a like interest shall be charged from the date such last half became delinquent.

Sec. 10. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-three (43), section one (1), amending chapter twenty-four (24), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purpose of this section, the city finance committee shall be the state appeal board when the political subdivision is a city.

Sec. 11. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Lee Town News, a newspaper published in Des Moines, Iowa, and in the Quad-City Times, a newspaper published in Davenport, Iowa.

Approved March 17, 1978

I hereby certify that the foregoing Act, Senate File 2151, was published in the Lee Town News, Des Moines, Iowa on March 23, 1978, and in the Quad-City Times, Davenport, Iowa on April 8, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1131

SPECIAL ASSESSMENTS IN CITIES

S. F. 2043

AN ACT relating to the payment of special assessments.

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

Section 1. Section three hundred eighty-four point sixty (384.60), subsection five (5), Code 1977, is amended to read as follows:

5. Direct the clerk to certify the final schedule to the auditor of the county or counties in which the assessed property is located, and to publish notice thereof once each week for two consecutive weeks in the manner provided in section 362.3, the first publication of which shall be not more than fifteen days from the date of filing of the final schedule. On or before the second publication of the notice, the clerk shall send by certified mail to each property owner

whose property is subject to assessment for the improvement, as shown by the records in the office of the county auditor, a copy of the notice. Such notice shall also include a statement in substance that assessments may be paid in full or in part without interest within thirty days after the date of certification, and thereafter all unpaid special assessments will draw annual interest at seven percent, computed to the December 4 first next following the due dates of the respective installments, and each installment will be delinquent on September 30 thirtieth following its due date, and will draw additionally the same delinquent interest and the same penalties as ordinary taxes. Such notice shall also state substantially that property owners may elect to pay any installment semiannually in advance. If a property is shown by the records to be in the name of more than one owner at the same mailing address, a single notice may be mailed to all owners at that address. Failure to receive a mailed notice is not a defense to the special assessment.

The county auditor shall place on the tax list the amounts to be assessed against each lot within the assessment district, as certified.

Sec. 2. Section three hundred eighty-four point sixty-five (384.65), subsection one (1), Code 1977, is amended to read as follows:

1. The first installment of each assessment, or the total amount if less than fifty dollars, is due and payable on July 4 first next succeeding the date of the levy, unless the assessment is filed with the county auditor after May 31 thirty-first in any year. The first installment shall bear interest on the whole unpaid assessment from the date of acceptance of the work by the council to the first day of December following the due date.

Sec. 3. Section three hundred eighty-four point sixty-five (384.65), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Each installment of an assessment shall be equal to the amount of the unpaid assessment as computed on the thirty-first day after the certification of the assessment divided by the number of annual installments into which the assessment may be divided as adopted by the council pursuant to section three hundred eighty-four point sixty (384.60) of the Code.

Sec. 4. Section three hundred eighty-four point sixty-seven (384.67), Code 1977, is amended to read as follows:

384.67 PAYMENT TO COUNTY TREASURER. Assessments levied and certified under the provisions of this division, including installments and interest, are payable at the office of the county treasurer of the county where the property assessed is located, except that assessments may be paid in full or in part and without interest within thirty days after the date of certification, at the office of the county treasurer, if the property being assessed is located in an unincorporated area, or the city clerk, if the property being assessed is located in an incorporated area except when the city council specifically provides payment to be made in the office of the county treasurer.

Sec. 5. This Act is effective January 1, 1979.

Approved May 12, 1978

CHAPTER 1132

RURAL COMMUNITY DEVELOPMENT

H. F. 557

AN ACT relating to a community development program and making an appropriation.

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

Section 1. NEW SECTION. INTENT. The purpose of this Act is to encourage a sense of community in Iowa's small cities and rural areas through self-help development activities in local communities, to encourage local decisions on the development needs of the community and to encourage local citizens to realize their own resources and participate in decisions on development needs and their implementation. This Act may be cited as the "Iowa Rural Community Development Act".

Sec. 2. NEW SECTION. COMMITTEE ESTABLISHED. The Iowa rural community development committee is established within the community betterment division of the Iowa development commission and is composed of the following:

1. Seven citizens of the state appointed by the governor with the approval of two-thirds of the members of the senate for terms of six years one of whom shall be elected by the members every two years to serve as chairperson of the committee. One citizen from a city qualifying pursuant to

section three (3) of this Act shall be appointed from each congressional district and one citizen shall be appointed from the state at large.

2. The director of the division of municipal affairs of the office for planning and programming, the director of the community betterment division of the Iowa development commission, the superintendent of grants-in-aid of the Iowa state conservation commission, and the dean and director of the Iowa state university of science and technology cooperative extension service or their designees shall be nonvoting, ex officio members of the committee.

Not more than four members of the committee appointed pursuant to subsection one (1) of this section shall be of the same political party. Vacancies shall be filled in the same manner in which the original appointments are made. The members of the committee shall be reimbursed for their actual and necessary expenses incurred in performing their duties as members of the committee which shall be paid from the funds appropriated to the committee.

Sec. 3. NEW SECTION. QUALIFICATIONS FOR GRANTS.

1. A sponsor from a city of less than twenty-five hundred population by the last available federal census may apply to the committee for a grant for a community development project. The application must be sponsored by the city government or by an organization representing a broad cross-section of the community.

2. The sponsor shall design and implement a survey to discover community needs and resources. The sponsor shall then hold public meetings to discuss and determine the priority of needs, the available resources, and the most appropriate project for the grant application.

3. The committee shall provide simple and direct forms for applications for the grants. The applications shall include the following:

- a. A description of the process followed in accordance with subsection two (2) of this section.
- b. A description of the project and the plans for the completion of the project.
- c. A statement as to why the particular project was selected from among the other community needs.
- d. A statement as to the effect of the project upon the community.
- e. A statement of the other resources available for the project.

Sec. 4. NEW SECTION. APPROVAL OF GRANTS. The committee shall allocate the funds to the applicants based on the extent to which the project is actually a self-help activity, whether the members of the community, and the surrounding area if appropriate, are involved in the determination of the local needs, whether there is local implementation of the development needs, and whether there is local participation in the activity. The committee may request the recommendation of an appropriate public or private agency organized under chapter twenty-eight E (28E) or four hundred seventy-three A (473A) of the Code regarding the project proposed in the application. The committee shall attempt, after consideration of the prior criteria, to achieve an even distribution among cities of different populations and an even geographic distribution of the grants.

A grant shall not exceed five thousand dollars nor shall it exceed forty percent of the total cost of the project. A grant shall not be approved by the committee unless the grant and the other available resources equal the total cost of the project. The other available resources may include donations of money, goods or services which shall be included in the computation of the cost of the project, but shall not include any funds received from the federal government.

Sec. 5. NEW SECTION. WARRANTS. The state comptroller is authorized and directed to draw warrants for the purposes stated in this Act upon the vouchers of the chairperson of the committee.

Sec. 6. In making the initial appointments of the members of the committee listed in section two (2), subsection one (1) of this Act, the governor shall appoint three members to terms of two years, two members to terms of four years, and two members to terms of six years.

Sec. 7. There is appropriated from the general fund of the state to the Iowa rural community development committee for the fiscal year beginning July 1, 1978 and ending June 30, 1979, the sum of two hundred fifty thousand (250,000) dollars or so much thereof as may be necessary to be used for the projects approved by the committee in accordance with this Act, the supplies and expenses of the committee, and the salary of a part-time director, however, not more than twenty thousand (20,000) dollars may be spent on supplies, expenses and the salary of the director.

Approved June 27, 1978

CHAPTER 1133

CITY CIVIL SERVICE COMMISSIONERS

H. F. 396

AN ACT relating to conflict of interest for city civil service commissioners and providing a penalty.

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

Section 1. Section four hundred point two (400.2), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Civil service commissioners shall not buy from, sell to, or in any manner become parties, directly, to any contract to furnish supplies, material, or labor to the city in which they are commissioners. A violation of this conflict of interest provision is a simple misdemeanor.

Approved April 17, 1978

CHAPTER 1134

POLICE AND FIRE RETIREMENT FUNDS

H. F. 2219

AN ACT relating to the investment of police and fire retirement system funds.

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

Section 1. Section four hundred eleven point seven (411.7), subsection two (2), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred eighteen (118), section two (2), is amended to read as follows:

2. The city treasurer may invest at the direction of the respective boards of trustees such portion of the several funds created by this chapter as in the judgment of the respective boards are not needed for current payment of benefits under this chapter in interest-bearing securities, notes, certificates, bonds, or other evidences of indebtedness issued or guaranteed by the United States, or interest-bearing bonds issued by the state of Iowa, or make deposits of such funds in banks as provided in chapter 453, or in bonds issued by counties, school districts, or general obligation or limited levy bonds issued by municipal corporations in this

state as authorized for investment by insurance companies under section 511.8 and subject to all limitations contained in said section. In the event of loss on the redemption or sale of securities, where invested as prescribed by law, neither the treasurer nor the trustees shall be personally liable, but such loss shall be charged against the retirement funds. The city treasurer may sell any securities in such funds and reinvest the proceeds in accordance with the direction of the respective boards of trustees when such action may be deemed advisable by the trustees for the protection of said funds or the preservation of the value of the investment.

Approved June 2, 1978

CHAPTER 1135

MULTIPLE DWELLING INSPECTION

H. F. 2010

AN ACT removing the limit on fees certain cities may establish for inspection of multiple dwellings.

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

Section 1. Section four hundred thirteen point one hundred twenty-three (413.123), Code 1977, is amended to read as follows:

413.123 INSPECTION OF MULTIPLE DWELLINGS. The health officer, or such other appropriate public official as the mayor may designate, shall cause an inspection to be made of every multiple dwelling at least once a year. Such inspection shall include thorough examination of all parts of such multiple dwelling and the premises connected therewith. The health officer or such other official so designated is also hereby empowered to make similar inspections of all dwellings as frequently as may be necessary, and ~~shall~~ may make inspection at any reasonable time on complaint of the owner, tenant, or other person concerned. Cities ~~of twenty-five-thousand-or-more-population~~ may establish a reasonable schedule of fees ~~for the purpose of defraying the~~ which fees shall be based upon the actual costs of inspection, enforcement, and administration of the provisions of this section relating to multiple dwellings. ~~The fees shall not exceed seven dollars and fifty cents for the first unit and~~

~~seventy-five-cents-for-each-additional-unit-and-shall-apply
only-to-the-annual-inspections.~~

Sec. 2. This Act is effective January 1, 1979.

Approved June 14, 1978

CHAPTER 1136
INDUSTRIAL PROPERTY VALUATIONS

H. F. 2356

AN ACT relating to assessment procedures by providing duties for the department of revenue and owners of industrial property in valuing industrial property and creating a reassessment expense fund to provide loans to assessing jurisdictions for revaluing property and making an appropriation therefor.

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

Section 1. Section four hundred twenty-one point seventeen (421.17), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. To subpoena from property owners and taxpayers any and all records and documents necessary to assist the department in the determination of the fair market value of industrial real estate. The burden of showing reasonable cause to believe that the documents or records sought by the subpoena are necessary to assist the department under this subsection shall be upon the director.

Sec. 2. Chapter four hundred twenty-one (421), Code 1977, is amended by adding the following new section:

NEW SECTION.

1. There is created in the office of the treasurer of state a "reassessment expense fund" for the purpose of providing loans to a city and county conference board for conducting reassessments of property. There is appropriated to the reassessment expense fund from the general fund of the state from any unappropriated funds in the general fund of the state such funds as are necessary to carry out the provisions of this Act, subject to the approval of the state comptroller. Repayment of loans shall be credited to the fund.

2. There is created a reassessment expense fund committee composed of the director of revenue, the state comptroller, and the chairperson of the state board of tax review. The committee shall maintain and administer the reassessment expense fund created pursuant to subsection one (1) of this section.

3. Within sixty days of the receipt of an order of the director to reassess all or part of the property in an assessing jurisdiction, the conference board and assessor of the assessing jurisdiction shall submit to the director a detailed proposal for complying with the order. The proposal shall contain specifications for the completion of the reassessment project, the financial condition of the assessing jurisdiction, and any other information deemed necessary by the director.

4. Each proposal submitted pursuant to subsection three (3) of this section shall be reviewed by the director to determine if the proposal will result in compliance with the reassessment order. The director shall approve or disapprove each proposal and shall notify the appropriate conference board and assessor of the decision. If the director determines the proposal will not result in compliance with the reassessment order, the notice shall contain the reasons for the director's determination and an explanation as to how the proposal shall be corrected in order to be approved by the director.

5. If the notice to the conference board and the assessor states that the director has determined that the proposal will result in compliance with the reassessment order, the conference board may, if it lacks the financial resources to comply in all respects with the reassessment order, file with the committee an application for a loan from the reassessment expense fund. The loan to the conference board may be for all or part of the funds required to comply with the reassessment order. The committee shall approve, amend and approve, or reject each application and notify the conference board and assessor of its decision. If the application is amended or rejected, the notice shall contain the committee's reasons for the amendment or rejection.

6. Upon the committee's approval of the advancement of funds from the reassessment expense fund, the committee shall certify to the appropriate conference board and assessor a schedule for disbursing the loan to the assessing jurisdiction's appraiser fund authorized by section four hundred forty-one point fifty (441.50) of the Code. The schedule shall provide for the disbursement of funds over the period of the reassessment project, except that ten percent of the funds shall not be disbursed until the project is completed. The conference board shall at its next opportunity levy pursuant to section four hundred forty-one point fifty

(441.50) of the Code sufficient funds for purposes of repaying the loan made from the reassessment expense fund. The amount levied shall be sufficient to repay the loan in semiannual installments during the course of the reappraisal project as specified by a repayment schedule established by the committee. The repayment schedule shall provide for repayment of the loan not later than one year following the completion of the reassessment. Semiannual repayments of the proceeds of the loan shall be made on or before December first and May first of each year.

7. Any reassessment of property ordered by the director, whether or not undertaken with funds provided in this section, shall be conducted by the assessor in accordance with the Iowa real property appraisal manual issued under authority of section four hundred twenty-one point seventeen (421.17), subsection eighteen (18), of the Code, the assessment laws of this state, and any reassessment order issued by the director under authority of chapter four hundred twenty-one (421) of the Code. The conference board may employ appraisers or other expert help to assist the assessor in completing the reassessment, except that no conference board receiving funds under this section shall enter into a contract for the reassessment of property until the board's proposal for completing the reassessment is approved. The director shall supervise the conduct of all reassessments of property and issue to the assessor or conference board such instructions, directives, or orders as are necessary to ensure compliance with the provisions of this section and the assessment laws of this state.

8. The assessor of each assessing jurisdiction receiving funds under this section shall submit to the director, in the form and manner prescribed by the director, reports showing the progress of the reassessment. If the director determines that a reassessment undertaken with funds provided in this section is not being conducted in accordance with the proposal submitted pursuant to subsection three (3) of this section, the director shall notify the appropriate conference board and assessor and the committee of the director's determination. The notice shall contain an explanation as to how the deficiencies in the reassessment may be corrected. If the deficiencies noted by the director are not corrected within sixty days of the date the assessor and conference board are notified of their existence, the committee shall suspend payments from the reassessment expense fund until the director

notifies the committee that the deficiencies have been corrected.

9. Funds obtained under this section shall be used only to conduct reassessments of property as approved and conducted pursuant to this section.

Sec. 3. Section four hundred forty-one point nineteen (441.19), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. On or before February fifteenth of each year, each owner of industrial real estate shall submit to the local assessor a report listing by year of acquisition and by acquisition cost the owner's machinery as described in section four hundred twenty-seven A point one (427A.1), subsection one (1), paragraph e, of the Code, and specifying any machinery added or removed during the preceding assessment year. A report containing an itemized list of machinery by year of acquisition and by acquisition cost shall be required only when deemed necessary by the assessor. The reports shall be submitted on forms prescribed by the director of revenue or on forms submitted by the taxpayer and approved by the assessor which forms shall contain the same information as is required to be reported on forms prescribed by the director. If a person shall knowingly enter false information on the report, the person shall be guilty of a simple misdemeanor. Also, if a person refuses to file the report provided for in this paragraph, the assessor shall proceed in accordance with the provisions of section four hundred forty-one point twenty-four (441.24) of the Code.

Approved May 8, 1978

CHAPTER 1137

INCOME TAX WITHHOLDING AGENTS

S. F. 141

AN ACT relating to the definition and bonding of withholding agent for income tax purposes and making the Act retroactive.

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

Section 1. Section four hundred twenty-two point four (422.4), subsection thirteen (13), Code 1977, is amended to read as follows:

13. The term "withholding agent" means any individual, fiduciary, estate, trust, corporation, partnership or

association in whatever capacity acting and including all officers and employees of the state of Iowa, or any municipal corporation of the state of Iowa and of any school district or school board of the state, or of any political subdivision of the state of Iowa, or any tax-supported unit of government that is obligated to pay or has control of paying or does pay to any resident or nonresident of the state of Iowa or his agent any wages that are subject to the Iowa income tax in the hands of such resident or nonresident, or any of the above-designated entities making payment or having control of making such payment of any taxable Iowa income to any nonresident. The term "withholding agent" shall also include an officer or employee of a corporation or association, or a member or employee of a partnership, who as such officer, employee, or member has the responsibility to perform an act under section four hundred twenty-two point sixteen (422.16) of the Code and who subsequently knowingly violates the provisions of section four hundred twenty-two point sixteen (422.16) of the Code.

Sec. 2. Section four hundred twenty-two point sixteen (422.16), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The director may, when necessary and advisable in order to secure the collection of the tax required to be deducted and withheld or the amount actually deducted, whichever is greater, require a nonresident employer or withholding agent to file with the director a bond, issued by a surety company authorized to conduct business in this state and approved by the insurance commissioner as to solvency and responsibility, in such amount as the director may fix, to secure the payment of the tax and penalty due or which may become due. In lieu of the bond, securities shall be kept in the custody of the department and may be sold by the director at public or private sale, without notice to the depositor, if it becomes necessary to do so in order to recover any tax and penalty due. Upon any such sale, any surplus above the amounts due under this section shall be returned to the nonresident employer or withholding agent who deposited the securities.

Sec. 3. The provisions of this Act are effective to January 1, 1978, and to this extent the provisions of this Act are retroactive.

Sec. 4. This Act, being deemed of immediate importance,

shall take effect and be in force from and after its publication in the Adair County Free Press, a newspaper published in Greenfield, Iowa, and in the Storm Lake Pilot-Tribune, a newspaper published in Storm Lake, Iowa.

Approved April 27, 1978

I hereby certify that the foregoing Act, Senate File 141, was published in the Adair County Free Press, Greenfield, Iowa on May 3, 1978, and in the Storm Lake Pilot-Tribune, Storm Lake, Iowa on May 3, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1138

INDIVIDUAL AND CORPORATE INCOME TAX

H. F. 2037

AN ACT relating to the computation of individual and corporate income tax and the franchise tax by updating the references to the internal revenue code, by providing for the computation of depreciation and capital loss by certain taxpayers, by allowing a deduction from income by individuals and corporations for the amount of the allowable federal new jobs tax credit and making the Act retroactive.

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

Section 1. Section four hundred twenty-two point four (422.4), subsection seventeen (17), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), section one (1), is amended to read as follows:

17. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, ~~1977~~ 1978.

Sec. 2. Section four hundred twenty-two point seven (422.7), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), sections two (2) and three (3), is amended by adding the following new subsections:

NEW SUBSECTION. Married taxpayers who file a joint federal income tax return and who elect to file separate returns or separate filing on a combined return for Iowa income tax purposes, may avail themselves of the additional first-year depreciation and capital loss provisions of sections one hundred seventy-nine a (179(a)) and twelve hundred eleven

b (1211(b)) respectively of the Internal Revenue Code of 1954 and shall compute the amount of additional first-year depreciation and capital loss subject to the limitations for joint federal income tax return filers provided by sections one hundred seventy-nine b (179(b)) and twelve hundred eleven b (1211(b)) respectively of the Internal Revenue Code of 1954.

NEW SUBSECTION. Subtract the amount of the new jobs tax credit allowable for the tax year under section forty-four B (44B) of the Internal Revenue Code of 1954 to the extent that the credit increased federal adjusted gross income.

Sec. 3. Section four hundred twenty-two point thirty-two (422.32), subsection four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), section nine (9), is amended to read as follows:

4. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954, as amended to and including January 1, ~~1977~~ 1978.

Sec. 4. Section four hundred twenty-two point thirty-five (422.35), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Subtract the amount of the new jobs tax credit allowable for the tax year under section forty-four B (44B) of the Internal Revenue Code of 1954 to the extent that the credit increased federal taxable income.

Sec. 5. Section four hundred twenty-two point sixty-one (422.61), subsection four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), section ten (10), is amended to read as follows:

4. "Net income" means the net income of the financial institution computed in accordance with section 422.35, with the exception that interest and dividends from federal securities shall not be subtracted and interest and dividends from evidences of indebtedness and securities of this state and its political subdivisions, exempt from federal income tax under the Internal Revenue Code of 1954 as amended to and including January 1, ~~1977~~ 1978, shall not be added.

Sec. 6. The provisions of this Act are retroactive to January 1, 1977 for tax years beginning on or after January 1, 1977 and to this extent the provisions of this Act are retroactive.

Sec. 7. This Act, being deemed of immediate importance, shall take effect and be in force from and after its

publication in The Record, a newspaper published in Cedar Falls, Iowa, and in the Linn News-Letter, a newspaper published in Central City, Iowa.

Approved February 16, 1978

I hereby certify that the foregoing Act, House File 2037, was published in The Record, Cedar Falls, Iowa on February 28, 1978 and in the Linn News-Letter, Central City, Iowa on March 1, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1139
INCOME TAX COMPUTATIONS

S. F. 2210

AN ACT relating to the method of deducting net operating losses and political contributions in computing the income tax liability of individuals and corporations.

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

Section 1. Section four hundred twenty-two point nine (422.9), subsection two (2), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), sections four (4) and five (5), is amended to read as follows:

2. The total of contributions, interest, taxes, medical expense, nonbusiness losses and miscellaneous expenses deductible for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

Sec. 2. Section four hundred twenty-two point nine (422.9), subsection two (2), paragraph c, Code 1977, is amended to read as follows:

c. Add the amount donated ~~to-a-political-party-or-parties as-defined-by-section-43-2~~ as a political contribution as defined in section forty-one c (41 (c)) of the Internal Revenue Code of 1954, not to exceed one hundred dollars or two hundred dollars in the case of a married couple filing a joint return.

Sec. 3. Section four hundred twenty-two point nine (422.9), subsection two (2)*, Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), sections four (4) and five (5), is amended by adding the following new subsection:*

NEW SUBSECTION. If after applying all of the adjustments

*According to enrolled Act

provided for in section four hundred twenty-two point seven (422.7) of the Code, the allocation provisions of section four hundred twenty-two point eight (422.8) of the Code and the deductions allowable in this section subject to the modifications provided in section one hundred seventy-two d (172(d)) of the Internal Revenue Code of 1954, the taxable income results in a net operating loss, the net operating loss shall be deducted as follows:

a. The Iowa net operating loss shall be carried back three taxable years or to the taxable year in which the individual first earned income in Iowa whichever year is the later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph a of this subsection or if not required to be carried back shall be carried forward seven taxable years.

c. If the election under section one hundred seventy-two b three E (172 (b) (3) (E)) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward seven taxable years.

d. No portion of a net operating loss which was incurred without the state by a nonresident of this state shall be deducted.

e. Estates and trusts subject to tax under section four hundred twenty-two point six (422.6) of the Code shall be subject to the above net operating loss provisions.

Sec. 4. Section four hundred twenty-two point thirty-five (422.35), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

The term "net income" means the taxable income ~~less~~ before the net operating loss deduction, ~~both~~ as properly computed for federal income tax purposes under the Internal Revenue Code of 1954, with the following adjustments:

Sec. 5. Section four hundred twenty-two point thirty-five (422.35), Code 1977, as amended by House File two thousand thirty-seven (2037), enacted by the Sixty-seventh General Assembly, 1978 Session, section four (4), is amended by adding the following new subsection:

NEW SUBSECTION. If after applying all of the adjustments provided for in this section and the allocation and apportionment provisions of section four hundred twenty-two point thirty-three (422.33) of the Code, the Iowa taxable income results in a net operating loss, such net operating loss shall be deducted as follows:

a. The Iowa net operating loss shall be carried back three taxable years or to the taxable year in which the corporation first commenced doing business in this state, whichever is later.

b. The Iowa net operating loss remaining after being carried back as required in paragraph a of this subsection or if not required to be carried back shall be carried forward seven taxable years.

c. If the election under section one hundred seventy-two b three E (172 (b) (3) (E)) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward seven taxable years.

d. No portion of a net operating loss which was sustained from that portion of the trade or business carried on outside the state of Iowa shall be deducted.

Sec. 6. The provisions of this Act are retroactive to January 1, 1978 for Iowa net operating losses sustained in tax years beginning on or after January 1, 1978 and to this extent the provisions of this Act are retroactive.

Sec. 7. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Waterloo Courier, a newspaper published in Waterloo, Iowa, and in the Fayette County Union, a newspaper published in West Union, Iowa.

Approved May 9, 1978

I hereby certify that the foregoing Act, Senate File 2210, was published in The Waterloo Courier, Waterloo, Iowa on May 19, 1978, and in the Fayette County Union, West Union, Iowa on May 18, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1140

INCOME TAX LIMITATIONS

H. F. 2132

AN ACT relating to the period of limitations during which determination of income tax due can be made and refunds can be claimed.

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

Section 1. Section four hundred twenty-two point twenty-five (422.25), subsection one (1), Code 1977, is amended to read as follows:

1. ~~As-seen-as-practicable-and-in-any-event-within~~ Within three years after the return is filed or within three years

after the return became due, including any extensions of time for filing, whichever time is the later, the department shall examine it and determine the correct amount of tax, and the amount so determined by the department shall be the tax; provided that if the taxpayer omits from income such an amount as will, under the Internal Revenue Code of 1954, extend the statute of limitations for assessment of federal tax to six years under said Code, the period for examination and determination shall be six years, and provided further that the period for examination and determination shall be unlimited in the case of a false or fraudulent return with intent to evade tax or in the case of failure to file a return.

Notwithstanding the periods of limitation for examination and determination heretofore specified, the department shall have six months to make an examination and determination from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter which occurred after the expiration of the applicable period of limitation specified in this section between the taxpayer and the internal revenue service with respect to the particular tax year. In order to begin the running of the six-months' period, the notice shall be in writing in any form sufficient to inform the department of such final disposition with respect to such year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice. The period for examination and determination of correct amount of tax shall be unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to such prior year of a net operating loss or net capital loss, the period shall be the period of limitation for the taxable year of the net operating loss or net capital loss which results in such carryback.

The burden of proof of additional tax owing under the six-year period, or unlimited period, shall be on the department. If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall notify the taxpayer by certified mail of the total, which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last

day of the following month if the notice is postmarked after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

Sec. 2. Section four hundred twenty-two point seventy-three (422.73), Code 1977, is amended to read as follows:

422.73 CORRECTION OF ERRORS.

1. If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of division four (IV) of this chapter or chapter four hundred twenty-three (423) of the Code, then such amount shall be credited against any tax due, or to become due, under this chapter from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. ~~No~~ A claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed became due, or one year after such tax payment was made, whichever time is the later, shall not be allowed by the director. ~~Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax controversy between the taxpayer and the internal revenue service with respect to the particular tax year or years to claim an income tax refund or credit, provided the taxpayer has notified the department of revenue of the existence of said income tax controversy within the five-year limitation period.~~

2. If it shall appear that, as a result of mistake, an amount of tax, penalty, or interest has been paid which was not due under the provisions of divisions two (II), three (III) or five (V) of this chapter, then such amount shall be credited against any tax due, or to become due, under this chapter from the person who made the erroneous payment, or such amount shall be refunded to such person by the department. A claim for refund or credit that has not been filed with the department within three years after the return upon which a refund or credit claimed became due, or within one year after the payment of the tax upon which a refund or credit is claimed was made, whichever time is the later, shall not be allowed by the director; if, as a result of a carryback of a net operating loss or a net capital loss, the amount of tax in a prior period is reduced and an overpayment results,

the claim for refund or credit of the overpayment shall be filed with the department within the three years after the return for the taxable year of the net operating loss or net capital loss became due. Notwithstanding the period of limitation specified, the taxpayer shall have six months from the day of final disposition of any income tax matter between the taxpayer and the internal revenue service with respect to the particular tax year or years to claim an income tax refund or credit, provided the taxpayer has notified the department of revenue in writing no later than six months after the expiration of the three-year limitations period of the existence of such income tax matter.

Sec. 3. This Act is effective January 1, 1979 for tax years ending on or after January 1, 1979.

Approved March 17, 1978

CHAPTER 1141

CORPORATE NET INCOME TAX

S. F. 2056

AN ACT providing for the business and nonbusiness distinction in allocating and apportioning corporate net income for tax purposes and making the Act retroactive.

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

Section 1. Section four hundred twenty-two point thirty-two (422.32), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred nineteen (119), section nine (9), is amended by adding the following new subsections:

NEW SUBSECTION. "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

NEW SUBSECTION. "Nonbusiness income" means all income other than business income.

NEW SUBSECTION. "Commercial domicile" means the principal place from which the trade of business of the taxpayer is directed or managed.

NEW SUBSECTION. "Taxable in another state". For purposes

of allocation and apportionment of income under this division, a taxpayer is taxable in another state if:

a. In that state he or she is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

b. That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

NEW SUBSECTION. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

Sec. 2. Section four hundred twenty-two point thirty-three (422.33), subsection one (1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-two (122), section one (1), is amended by striking paragraph a and inserting in lieu thereof the following:

a. Nonbusiness interest, dividends, rents and royalties, less related expenses, shall be allocated within and without the state in the following manner:

(1) Nonbusiness interest, dividends, and royalties from patents and copyrights shall be allocable to this state if the taxpayer's commercial domicile is in this state.

(2) Nonbusiness rents and royalties received from real property located in this state are allocable to this state.

(3) Nonbusiness rents and royalties received from tangible personal property are allocable to this state to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property is utilized. The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown, or unascertainable by the taxpayer tangible personal property is utilized in the state in which the property was located at the time the rental

or royalty payor obtained possession.

Sec. 3. Section four hundred twenty-two point thirty-three (422.33), subsection one (1), paragraph b, Code 1977, is amended to read as follows:

b. Net nonbusiness income of the above class having been separately allocated and deducted as above provided, ~~the remainder-of~~ the remaining net business income of the taxpayer shall be allocated and apportioned as follows:

Business interest, dividends, rents, and royalties shall be reasonably apportioned within and without the state under rules adopted by the director pursuant to chapter seventeen A (17A) of the Code.

Where income is derived from business other than the manufacture or sale of tangible personal property, such income shall be specifically allocated or equitably apportioned within and without the state under rules of the director.

Where income is derived from the manufacture or sale of tangible personal property, the part thereof attributable to business within the state shall be in that proportion which the gross sales made within the state bear to the total gross sales.

The gross sales of the corporation within the state shall be taken to be the gross sales from goods delivered or shipped to a purchaser within the state regardless of the f.o.b. point or other conditions of the sale, excluding deliveries for transportation out of the state.

For the purpose of this section, the word "sale" shall include exchange, and the word "manufacture" shall include the extraction and recovery of natural resources and all processes of fabricating and curing. The words "tangible personal property" shall be taken to mean corporeal personal property, such as machinery, tools, implements, goods, wares, and merchandise, and shall not be taken to mean money deposits in banks, shares of stock, bonds, notes, credits, or evidence of an interest in property and evidences of debt.

Sec. 4. The provisions of sections one (1), two (2), and three (3) of this Act are retroactive to January 1, 1977, for tax years beginning on or after January 1, 1977 and to this extent the provisions of sections one (1), two (2), and three (3) of this Act are retroactive.

Sec. 5. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Dallas County News, a newspaper published

in Adel, Iowa, and in the Cherokee Daily Times, a newspaper published in Cherokee, Iowa.

Approved April 27, 1978

I hereby certify that the foregoing Act, Senate File 2056, was published in the Dallas County News, Adel, Iowa on May 3, 1978, and in the Cherokee Daily Times, Cherokee, Iowa on May 3, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1142

SALES TAX EXEMPTIONS

S. F. 2173

AN ACT providing for exemption certificates for exempt purchases under the sales tax law, relating to casual sales and assigning responsibility for the tax on nonexempt purchases subject to penalties provided by law.

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

Section 1. Section four hundred twenty-two point forty-two (422.42), Code 1977, is amended by striking subsection twelve (12) and inserting in lieu thereof the following:

12. "Casual sales" means:

a. Sales of a nonrecurring nature of tangible personal property by the owner, if the seller, at the time of the sale, is not engaged for profit in the business of selling tangible personal property or services taxed under section four hundred twenty-two point forty-three (422.43) of the Code.

b. The sale of all or substantially all of the tangible personal property held or used by a retailer in the course of the retailer's trade or business for which the retailer is required to hold a sales tax permit when the retailer sells or otherwise transfers the trade or business to another person who shall engage in a similar trade or business.

Sec. 2. Section four hundred twenty-two point forty-seven (422.47), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The department shall issue exemption certificates in such form as the director may require to assist retailers in properly accounting for non-taxable sales of tangible personal property or services to buyers for purposes of resale or for processing.

The sales tax liability for all sales of tangible personal property and all sales of services shall be upon the seller

unless the seller takes in good faith from the purchaser a valid exemption certificate stating under penalties for perjury that the purchase is for resale or for processing and is not a retail sale as defined in section four hundred twenty-two point forty-two (422.42), subsection three (3), of the Code. Where the tangible personal property or services are purchased tax free pursuant to a valid exemption certificate which is taken in good faith by the seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser shall be solely liable for the taxes and shall remit said taxes directly to the department and sections four hundred twenty-two point fifty (422.50), four hundred twenty-two point fifty-one (422.51), four hundred twenty-two point fifty-two (422.52), four hundred twenty-two point fifty-four (422.54), four hundred twenty-two point fifty-five (422.55), four hundred twenty-two point fifty-six (422.56), four hundred twenty-two point fifty-seven (422.57), four hundred twenty-two point fifty-eight (422.58), and four hundred twenty-two point fifty-nine (422.59) of the Code shall apply to such purchaser.

a. A valid exemption certificate is an exemption certificate as required and supplied by the department, which is complete and correct according to the requirements of the director.

b. A valid exemption certificate is taken in good faith by the seller when the seller has exercised that caution and diligence which honest persons of ordinary prudence would exercise in handling their own business affairs, and includes an honesty of intention and freedom from knowledge of circumstances which ought to put one upon inquiry as to the facts. In order for a seller to take a valid exemption certificate in good faith, he or she must exercise reasonable prudence to determine the facts supporting the valid exemption certificate, and if any facts upon such certificate would lead a reasonable person to further inquiry, then such inquiry must be made with an honest intent to discover the facts.

c. The certificate shall state that there is no penalty for perjury if the purchaser has completed the certificate in good faith based upon the facts known at the time of its completion. If the circumstances should change and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser shall

be liable solely for the taxes and shall remit said taxes directly to the department in accordance with this subsection.

Sec. 3. This Act is effective January 1, 1979.

Approved May 10, 1978

CHAPTER 1143
SALES AND USE TAXES

S. F. 2066

AN ACT to exempt from the sales and use tax admission fees to amusements, fairs, and athletic events of elementary and secondary schools, the storage of goods except raw agricultural products, the rental of prosthetic, orthotic, and orthopedic devices, the sale of draft horses to be used as draft horses, certain vehicles which are purchased for lease outside the state, and tangible personal property which becomes an integral part of certain vehicles manufactured for lease outside the state, and to provide for the refund of sales and use taxes paid on purchases by municipally owned solid waste facilities and other public agencies.

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

Section 1. Section four hundred twenty-two point forty-three (422.43), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

There is hereby imposed a tax of three percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing or service of gas, electricity, water, heat, and communication service, including the gross receipts from such sales by any municipal corporation furnishing gas, electricity, water, heat, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; and a like rate of tax

upon the gross receipts from all sales of tickets or admissions to places of amusement, fairs, and athletic events ~~including~~ except those of elementary and secondary educational institutions, ~~fairs~~; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

Sec. 2. Section four hundred twenty-two point forty-three (422.43), unnumbered paragraph nine (9), Code 1977, is amended to read as follows:

The following enumerated services shall be subject to the tax herein imposed on gross taxable services: Alteration and garment repair; armored car; automobile repair; battery, tire and allied; investment counseling (excluding investment services of trust departments); bank service charges; barber and beauty; boat repair; car wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dry cleaning, pressing, dyeing, and laundering; electrical repair and installation; engraving, photography, and retouching; equipment rental; excavating and grading; farm implement repair of all kinds; flying service, except agricultural aerial application services and aerial commercial and charter transportation services; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking lot; pipe fitting and plumbing; wood preparation; private employment agencies; printing and binding; sewing and stitching; shoe repair and shoeshine; storage ~~warehouse-and-storage-lecker~~ warehousing of raw agricultural products; telephone answering service; test laboratories; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; vulcanizing, recapping, and retreading; ~~warehouse~~; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing.

Sec. 3. Section four hundred twenty-two point forty-five (422.45), subsection five (5) and subsection seven (7),

unnumbered paragraph one (1), Code 1977 Supplement, are amended to read as follows:

5. The gross receipts or from services rendered, furnished, or performed and of all sales of goods, wares or merchandise used for public purposes to any tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof, including the state board of regents, state department of social services, state department of transportation, any municipally-owned solid waste facility which sells all or part of its processed waste as fuel to a municipally-owned public utility and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government ~~which derive disburseable funds from appropriations or allotments of funds raised by the levying and collection of taxes,~~ which have no earnings going to the benefit of an equity investor or stockholder except sales of goods, wares or merchandise or from services rendered, furnished, or performed and used by or in connection with the operation of any municipally-owned public utility engaged in selling gas, electricity or heat to the general public.

The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise or from services rendered, furnished, or performed and subject to use tax under the provisions of chapter 423.

7. Any private nonprofit educational institution in this state or any tax-certifying or tax-levying body of the state of Iowa or governmental subdivision thereof, including the state board of regents, state department of social services, state department of transportation, any municipally-owned solid waste facility which sells all or part of its processed waste as fuel to a municipally-owned public utility and all divisions, boards, commissions, agencies or instrumentalities of state, federal, county or municipal government ~~which derive disburseable funds from appropriations or allotments of funds raised by the levying and collection of taxes~~ which have no earnings going to the benefit of an equity investor or stockholder may make application to the department for the refund of any sales or use tax upon the gross receipts of all sales of goods, wares or merchandise or from services rendered, furnished, or performed to any contractor, used in the fulfillment of any written contract with the state of Iowa, ~~or~~ any political subdivision thereof, or any division, board, commission, agency or instrumentality thereof, or any

private nonprofit educational institution in this state which property becomes an integral part of the project under contract and at the completion thereof becomes public property, or is devoted to educational uses as specified in this subsection except goods, wares or merchandise or services rendered, furnished, or performed used in the performance of any contract in connection with the operation of any municipal utility engaged in selling gas, electricity, or heat to the general public; and excepting such goods, wares and merchandise used in the performance of any contract for a "project" under said chapter 419 as defined therein other than goods, wares or merchandise used in the performance of any contract for any "project" under said chapter 419 for which a bond issue was or will have been approved by a municipality prior to July 1, 1968.

Sec. 4. Section four hundred twenty-two point forty-five (422.45), subsection fifteen (15), Code 1977 Supplement, is amended to read as follows:

15. Gross receipts from the sale or rental of prosthetic, orthotic or orthopedic devices for human use. For purposes of this subsection, "orthopedic devices" means those devices prescribed to be used for orthopedic purposes by a physician and surgeon licensed under chapter 148, an osteopath licensed under chapter 150, an osteopathic physician and surgeon licensed under chapter 150A, a dentist licensed under chapter 153, or a podiatrist licensed under chapter 149.

Sec. 5. Section four hundred twenty-two point forty-five (422.45), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. The gross receipts from the sale of horses, commonly known as draft horses, when purchased for use and so used as a draft horse.

Sec. 6. Section four hundred twenty-two point forty-five (422.45), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. Gross receipts from the sale of tangible personal property, except vehicles subject to registration, to a person regularly engaged in the business of leasing if the period of the lease is for more than one year, such tangible personal property, and the leasing of such property is subject to taxation under this division. Tangible personal property exempt under this subsection if made use of for any purpose other than leasing or renting, the person claiming the exemption under this subsection shall be liable for the

tax that would have been due except for this subsection. The tax shall be computed upon the original purchase price. The aggregate of the tax paid on the leasing or rental of such tangible personal property, not to exceed the amount of the sales tax owed, shall be credited against such tax. This sales tax shall be in addition to any sales or use tax that may be imposed as a result of the disposal of such tangible personal property.

Sec. 7. Section four hundred twenty-three point four (423.4), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. Vehicles, as defined in subsections four (4), six (6), eight (8), nine (9) and ten (10) of section three hundred twenty-one point one (321.1) of the Code, except such vehicles subject to registration which are designed primarily for carrying persons, when purchased for lease and actually leased to a lessee for use outside the state of Iowa and the subsequent sole use in Iowa is in interstate commerce or interstate transportation. This subsection shall be retroactive to January 1, 1973.

NEW SUBSECTION. Tangible personal property which, by means of fabrication, compounding, or manufacturing, become an integral part of vehicles, as defined in subsections four (4), six (6), eight (8), nine (9) and ten (10) of section three hundred twenty-one point one (321.1) of the Code, manufactured for lease and actually leased to a lessee for use outside the state of Iowa and the subsequent sole use in Iowa is in interstate commerce or interstate transportation. Vehicles subject to registration which are designed primarily for carrying persons are excluded from this subsection. This subsection shall be retroactive to January 1, 1973.

Approved June 26, 1978

CHAPTER 1144
HOTEL AND MOTEL TAX

S. F. 336

AN ACT relating to the imposition of a hotel and motel tax by a city or county and providing penalties.

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

Section 1. NEW SECTION. HOTEL AND MOTEL TAX. A city or county may impose by ordinance of the city council or by resolution of the board of supervisors a hotel and motel tax, at a rate not to exceed seven percent, which shall be imposed in increments of one or more full percentage points upon the gross receipts from the renting of any and all rooms, apartments, or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals except the gross receipts from the renting of sleeping rooms in dormitories and in memorial unions at all state of Iowa universities and colleges. The tax when imposed by a city shall apply only within the corporate boundaries of that city and when imposed by a county shall apply only outside incorporated areas within that county. "Renting" and "rent" include any kind of direct or indirect charge for such rooms, apartments, sleeping quarters, or the use thereof. However, such tax shall not apply to the gross receipts from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than thirty-one consecutive days.

A local hotel and motel tax shall be imposed on January first, April first, July first, or September first, following the notification of the director of revenue. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on March thirty-first, June thirtieth, September thirtieth, or December thirty-first. At least sixty days prior to the tax being effective or prior to a revision in the tax rate, or prior to the repeal of the tax, a city or county shall provide notice by certified mail of such action to the director of revenue.

A city or county shall impose a hotel and motel tax, only after an election at which a majority of those voting on the

question favors imposition. The election shall be held at the time of that city's or county's general election.

The director of revenue shall administer the provisions of a local hotel and motel tax as nearly as possible in conjunction with the administration of the state sales tax law. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting local hotel and motel tax liability. All moneys received or refunded one hundred eighty days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund.

The director, in consultation with local officials, shall collect and account for a local hotel and motel tax and shall credit all revenues to a "local transient guest tax fund" established by section two (2) of this Act.

No tax permit other than the state tax permit required under section four hundred twenty-two point fifty-three (422.53) of the Code may be required by local authorities.

The tax herein levied shall be in addition to any state sales tax imposed under section four hundred twenty-two point forty-three (422.43) of the Code. The provisions of sections four hundred twenty-two point twenty-five (422.25), subsection four (4), four hundred twenty-two point thirty (422.30), four hundred twenty-two point forty-eight (422.48) through four hundred twenty-two point fifty-two (422.52), four hundred twenty-two point fifty-four (422.54) through four hundred twenty-two point fifty-eight (422.58), four hundred twenty-two point sixty-seven (422.67), four hundred twenty-two point sixty-eight (422.68), four hundred twenty-two point sixty-nine (422.69), subsection one (1), and four hundred twenty-two point seventy (422.70) through four hundred twenty-two point seventy-five (422.75) of the Code, consistent with the provisions of this Act, shall apply with respect to the taxes authorized under this Act, in the same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding the provisions of this paragraph, the director shall provide for only quarterly filing of returns as prescribed in section four hundred twenty-two point fifty-one (422.51) of the Code. Further, the director may require all persons as defined in section four hundred twenty-two point forty-two (422.42) of the Code, who are engaged in the business of deriving gross receipts subject to tax under this Act, to register with the department.

Sec. 2. NEW SECTION. LOCAL TRANSIENT GUEST TAX FUND.

1. There is created in the office of the treasurer of state a local transient guest tax fund which shall consist of all moneys credited to such fund under section one (1) of this Act.

2. All moneys in the local transient guest tax fund shall be remitted at least quarterly by the treasurer of state, pursuant to rules of the director of revenue, to each city in the amount collected from businesses in that city and to each county in the amount collected from businesses in the unincorporated areas of the county.

3. Moneys received by the county or city from this fund shall be credited to the general fund of such county or city, subject to the provisions of subsection four (4) of this section.

4. The revenue derived from any hotel and motel tax authorized by this Act shall be used as follows:

a. Each county or city which levies the tax shall spend at least fifty percent of the revenues derived therefrom for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county or city for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the city or county and surrounding areas.

b. The remaining revenues may be spent by the city or county which levies the tax for any city or county operations authorized by law as a proper purpose for the expenditure within statutory limitations of city or county revenues derived from ad valorem taxes.

c. Any city or county which levies and collects the hotel and motel tax authorized by this Act may pledge an amount not to exceed thirty percent of the revenues derived therefrom to the payment of bonds which the city or county may issue for one or more of the purposes set forth in paragraph a of this subsection. Any revenue pledged to the payment of such

bonds may be credited to the spending requirement of paragraph a of this subsection.

Approved June 14, 1978

CHAPTER 1145

TAX EXEMPTION CLAIMS FILED BY SPOUSE

S. F. 2194

AN ACT permitting spouses of persons eligible to claim a homestead credit or military service exemption to make and collect such claim for them and making certain provisions of the Act retroactive.

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

Section 1. Section four hundred twenty-five point two (425.2), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Any person applying for homestead tax credit shall each year on or before July 4 first deliver to the assessor, on forms furnished by the assessor, a verified statement and designation of homestead as claimed. The assessor shall return said statement and designation on July 2 second of each year to the county auditor with a recommendation for allowance or disallowance endorsed thereon. In case the owner of the homestead is in active service in the armed forces of this state or of the United States, or is sixty-five years of age or older, or is disabled, such statement and designation may be signed and delivered by any member of the owner's family. In all cases where the owner of the homestead is married, the spouse may sign and deliver the statement and designation. The commissioner of social services or his the commissioner's designee may make application for the benefits of this chapter as the agent for and on behalf of persons receiving assistance under chapter 249.

Sec. 2. Section four hundred twenty-five point two (425.2), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

Any person sixty-five years of age or older or any person who is disabled may request, in writing, from the appropriate assessor forms for filing for homestead tax credit. Any person sixty-five years of age or older or who is disabled may complete the form, which shall include a statement of

homestead, and mail or return it to the appropriate assessor, by-ordinary-mail. The signature of the claimant on the statement shall be considered the claimant's acknowledgement that all statements and facts entered on the form are correct to the best of the claimant's knowledge.

Sec. 3. Section four hundred twenty-five point two (425.2), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon adoption of a resolution by the county board of supervisors, any person may request, in writing, from the appropriate assessor forms for the filing for homestead tax credit. The person may complete the form, which shall include a statement of homestead, and mail or return it to the appropriate assessor. The signature of the claimant on the statement of homestead shall be considered the claimant's acknowledgement that all statements and facts entered on the form are correct to the best of the claimant's knowledge.

Sec. 4. Section four hundred twenty-five point eighteen (425.18), Code 1977, is amended to read as follows:

425.18 CLAIM IS PERSONAL. The right to file a claim under this division shall be personal to the claimant and shall not survive ~~his~~ the claimant's death, but the right may be exercised on behalf of a claimant by his or her legal guardian, spouse or attorney. If a claimant dies after having filed a claim, the amount of the reimbursement may be paid to another member of the household as determined by the director. If the claimant was the only member of ~~his~~ the household, the reimbursement may be paid to ~~his~~ the claimant's executor or administrator, but if neither is appointed and qualified within one year from the date of the filing of the claim, the reimbursement shall escheat to the state.

Sec. 5. Section four hundred twenty-seven point five (427.5), Code 1977, is amended to read as follows:

427.5 REDUCTION--DISCHARGE OF RECORD--OATH. Any person named in section 427.3, provided he or she is a resident of and domiciled in the state of Iowa, shall receive a reduction equal to ~~his~~ the exemption, to be made from any property owned by such person and so designated ~~by-him~~ by proceeding as hereafter provided. In order to be eligible to receive said exemption or reduction the person claiming same shall have had recorded in the office of the county recorder of the county in which he or she shall claim exemption or reduction,

the military certificate of satisfactory service, order transferring to inactive status, reserve, retirement, or order of separation from service, or honorable discharge of the person claiming or through whom is claimed said exemption; in the event said evidence of satisfactory service, separation, retirement, furlough to reserve, inactive status, or honorable discharge is lost ~~he~~ the claimant may record in lieu of the same, a certified copy thereof. Said person shall file with the city or county assessor, as the case may be, ~~his~~ the claim for exemption or reduction in taxes under oath, which claim shall set out the fact that ~~he~~ said person is a resident of and domiciled in the state of Iowa, and a person within the terms of section 427.3, and give the volume and page on which the certificate of satisfactory service, order of separation, retirement, furlough to reserve, inactive status, or honorable discharge or certified copy thereof is recorded in the office of the county recorder, and may include the designation of the property from which ~~he-desires~~ said exemption or reduction is to be made, and shall further state that ~~he~~ the claimant is the equitable and legal owner of the property designated therein. The assessor shall tabulate and deliver or file said claims with the county auditor, having ~~his~~ the assessor's recommendations for allowance or disallowance endorsed thereon. In case the owner of the property is in active service in any of the armed forces of the United States or of this state, including the nurses corps of the state or of the United States, said claim may be executed and delivered or filed by the owner's spouse, parent, child, brother, or sister, or by any person who may represent ~~him~~ the owner under power of attorney. In all cases where the owner of the property is married, the spouse may execute and deliver or file said claim for exemption. ~~No~~ A person may not claim a reduction or exemption in more than one county of the state, and if ~~he~~ a designation is not made the exemption shall apply to the homestead, if any.

Sec. 6. Section four hundred twenty-seven point six (427.6), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Said claim for exemption, if filed on or before July 4 first of any year and allowed by the board of supervisors, shall be effective to secure an exemption only for the year in which such exemption is filed. Provided, notwithstanding the filing of the claim on or before July 4 first of any year, the claimant or the claimant's unremarried surviving spouse

shall be the legal or equitable owner of the property upon which exemption is claimed, on the first day of July of the year in which said exemption is claimed.

Sec. 7. Section four hundred twenty-seven point six (427.6), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon adoption of a resolution by the county board of supervisors, any person may request, in writing, from the appropriate assessor forms for the filing for a military service tax exemption. The person may complete the form, which shall include a statement claiming the military service tax exemption and designating the property upon which the tax exemption is claimed, and mail or return it to the appropriate assessor. The signature of the claimant on the claim shall be considered the claimant's acknowledgment that all statements and facts entered on the form are correct to the best of the claimant's knowledge.

Sec. 8. The provisions of sections two (2), three (3), and seven (7) of this Act shall be effective January 1, 1979.

Sec. 9. The provisions of this Act, except sections two (2), three (3), and seven (7) of this Act, are retroactive to January 1, 1978 for claims filed on or after January 1, 1978 for a homestead tax credit and a military service tax exemption and to this extent the provisions of this Act are retroactive.

Sec. 10. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Cedar Rapids Gazette, a newspaper published in Cedar Rapids, Iowa, and in the Mitchell County Press-News, a newspaper published in Osage, Iowa.

Approved May 8, 1978

I hereby certify that the foregoing Act, Senate File 2194, was published in The Cedar Rapids Gazette, Cedar Rapids, Iowa on May 17, 1978, and in the Mitchell County Press-News, Osage, Iowa on May 24, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1146

DISABLED VETERAN'S TAX CREDIT

H. F. 2295

AN ACT relating to the disabled veteran's tax credit.

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

Section 1. Section four hundred twenty-five point fifteen (425.15), Code 1977, is amended to read as follows:

425.15 DISABLED VETERAN TAX CREDIT. In the event the owner of the homestead, allowed a credit under this chapter, is a veteran of any of the military forces of the United States who acquired the homestead under the provisions of the United States Code, title 38, chapter 21, sections 801 and 802, the credit allowed on said homestead from the homestead credit fund herein provided shall be the entire amount of the tax levied on said homestead. The credit herein allowed shall be continued to the estate of such veteran who is deceased or the surviving spouse and any child, as defined in section 234.1 who are the beneficiaries thereof so long as the surviving spouse remains unmarried. The provisions of this section shall not be applicable to the holder of title to any such homestead whose annual income, together with that of his spouse, if any, for the last preceding twelve-month income tax accounting period exceeds ~~five~~ ten thousand dollars. For the purpose of this section "income" means taxable income for federal income tax purposes plus income from securities of state and other political subdivisions exempt from federal income tax. Any veteran or his beneficiary who elects to secure the credit provided in this section shall not be eligible for any other real property tax exemption provided by law for veterans of military service.

Sec. 2. This Act shall become effective January 1, 1979.
Approved May 9, 1978

CHAPTER 1147

TAXES AND ASSESSMENTS OF ELDERLY AND DISABLED

H. F. 2438

AN ACT to provide reimbursement for special assessments, for property taxes paid, and for rent constituting property taxes paid for persons sixty-five years of age or older, a surviving spouse fifty-five years of age or older, or totally disabled.

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

Section 1. Section four hundred twenty-five point seventeen (425.17), subsections nine (9) and ten (10), Code 1977, are amended to read as follows:

9. "Property taxes paid" means property taxes including ~~one-half-of~~ any special assessments, but exclusive of delinquent interest and charges for services, paid on a claimant's homestead in this state, but includes only property taxes for which the claimant was liable and which were actually paid by the claimant. If the property taxes have actually been paid, they shall be deemed to have been paid when due, regardless of the date of actual payment. "Property taxes paid" shall be computed with no deduction for any credit under this division or for any homestead credit allowed under section 425.1. ~~Claims-for-property-tax-reimbursement-filed-in-1974 shall-be-based-upon-the-property-taxes-paid-in-1973.--Claims-for-property-tax-reimbursement-filed-in-1975-shall-be-limited-to-two-thirds-of-the-property-taxes-paid-in-1974-and-the-first-one-half-of-1975.~~ Each year thereafter, each claim shall be based upon the taxes paid during the base year. If a homestead is owned by two or more persons as joint tenants or tenants in common, and one or more persons are not a member of claimant's household, "property taxes paid" is that part of property taxes paid on the homestead which equals the ownership percentage of the claimant and his or her household. The county treasurer shall include with the tax receipt a statement that if the owner of the property is sixty-five years of age or over or is totally disabled, or is a surviving spouse of such person who is over the age of fifty-five years of age, the person may be eligible for the credit allowed under this division. If a claimant changes his or her homestead, this shall not prevent him or her from filing a claim based on property taxes for which the claimant was liable and which were actually paid by the claimant, but

duplication of claims shall not be allowed. If a homestead is an integral part of a farm, the claimant may use the total property taxes paid for the larger unit, but not exceeding forty acres of land. If a homestead is an integral part of a multidwelling or multipurpose building the property taxes paid for the purpose of this subsection shall be prorated to reflect the portion which the value of the property that the household occupies as its homestead is to the value of the entire structure. For purposes of this subsection, "unit" refers to that parcel of property covered by a single tax statement of which the homestead is a part.

10. "Special assessment" means special assessments made pursuant to sections 384.37 to 384.79. The amount of a special assessment which may be included in the amount of property taxes paid for one year shall be an amount equal to ~~one-twentieth~~ one-tenth of the total amount of the special assessment levied against the homestead of the claimant, if the claimant elected to pay the total amount of the special assessment in one payment. If the claimant elects to pay the special assessment in ten annual installments as provided by law, the claimant may include as a portion of the property taxes paid during the base year an amount equal to ~~one-half~~ of the special assessment, including interest, paid during that same base year.

Sec. 2. Section four hundred twenty-five point twenty-three (425.23), subsection one (1), Code 1977, is amended by striking paragraph a and inserting in lieu thereof the following:

a. The amount shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes paid or rent constituting property taxes paid allowed as a reimbursement:
\$ 0 - 999.99	100%
1,000 - 1,999.99	100
2,000 - 2,999.99	95
3,000 - 3,999.99	85
4,000 - 4,999.99	70
5,000 - 5,999.99	55
6,000 - 6,999.99	40
7,000 - 7,999.99	30
8,000 - 8,999.99	25
9,000 - 9,999.99	20

Sec. 3. Section four hundred twenty-five point twenty-three (425.23), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Any person who is eligible to file a claim for reimbursement for property taxes paid and who has a household income of five thousand dollars or less and who has a special assessment levied against the homestead may file a claim with the county treasurer that the claimant had a household income of five thousand dollars or less during the base year and that a special assessment is presently levied against the homestead. The department shall provide to the respective county treasurers such forms as are necessary for the administration of this subsection. The claim shall be filed not later than September thirtieth of each year. Upon the filing of the claim, no penalty or interest for late payment shall accrue against the amount of the special assessment due and payable. The claim filed by the claimant shall constitute a claim for reimbursement of an amount equal to the actual amount due and payable upon the special assessment payable during the fiscal year against the homestead of the claimant or an amount equal to the annual payment of the special assessment levied against the homestead of the claimant and payable in annual installments through the period of years provided by the governing body of the city, whichever is less. The department of revenue shall, upon the filing of the claim with the department by the county treasurer, pay that amount of the special assessment during the current fiscal year to the county treasurer. The county treasurer shall submit the claims to the director of revenue not later than October fifteenth of each year. The director of revenue shall certify to the state comptroller the amount of reimbursement due each county for special assessment credits allowed under this subsection. The amount of reimbursement due each county shall be paid by the state comptroller on November fifteenth of each year, drawn upon warrants payable to the respective county treasurer. There is appropriated annually from the general fund of the state to the department of revenue an amount sufficient to carry out the provisions of this subsection. The county treasurer shall credit any moneys received from the department against the amount of the special assessment due and payable on the homestead of the claimant.

Sec. 4. Section four hundred twenty-five point twenty-four (425.24), Code 1977, is amended to read as follows:

425.24 MAXIMUM PROPERTY TAX. In any case in which property taxes paid or rent constituting property taxes paid in any base year for any household exceeds ~~six-hundred~~ one thousand dollars, the amount of property taxes paid or rent constituting property taxes paid shall be deemed to have been ~~six-hundred~~ one thousand dollars for purposes of this division.

Sec. 5. The provisions of sections one (1), two (2), and four (4) of this Act are effective January 1, 1979, for claims for reimbursement for property taxes paid and rent constituting property taxes paid which are filed on or after January 1, 1979.

Approved June 23, 1978

CHAPTER 1148

REAL ESTATE TRANSFERS SALES PRICE

S. F. 292

AN ACT providing for the disclosure of the actual sales price in real estate transfers and providing penalties for violations of this Act.

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

Section 1. Section four hundred twenty-eight A point one (428A.1), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. At the time each deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed is presented for recording to the county recorder, a declaration of value signed by at least one of the sellers or one of the buyers or their agents shall be submitted to the county recorder. A declaration of value shall not be required for those instruments described in section four hundred twenty-eight A point two (428A.2), subsections two (2) through thirteen (13) of the Code. The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section one hundred seventy-two C point one (172C.1) of the Code, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, that portion of the declaration of value which lists the name and address of the buyer, the name and address of the seller, a legal description

of the agricultural land, and identifying the buyer as a corporation, limited partnership, trust, alien, or nonresident alien shall be a public record. The county recorder shall not record the declaration of value, but shall enter on the declaration of value such information as the director of revenue may require for the production of the sales-assessment ratio study and transmit all declarations of value to the city or county assessor in whose jurisdiction the property is located. The city or county assessor shall enter on the declaration of value such information as the director of revenue may require for the production of the sales-assessment ratio study and transmit all declarations of value to the director of revenue, at such times as directed by the director of revenue. The director of revenue shall, upon receipt of the information required to be filed under the provisions of this Act by the city or county assessor, send to the office of the secretary of state that part of the declaration of value which is public record. The county recorder shall not retain any copy of a declaration of value for the recorder's records, except that the county recorder shall retain for public inspection a copy of that portion of the declaration of value which is public record.

Sec. 2. Section four hundred twenty-eight A point four (428A.4), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The county recorder shall refuse to record any deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed, except those transfers exempt from tax under section four hundred twenty-eight A point two (428A.2), subsections two (2) through thirteen (13) of the Code, until the declaration of value has been submitted to the county recorder. A declaration of value shall not be required with a deed given in fulfillment of a recorded real estate contract provided the deed has a notation that it is given in fulfillment of a contract.

Sec. 3. Section four hundred twenty-eight A point seven (428A.7), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director of revenue shall prescribe the form of the declaration of value and shall include an appropriate place for the inclusion of special facts and circumstances relating to the actual sales price in real estate transfers. The director shall provide an

adequate number of the declaration of value forms to each county recorder in the state.

Sec. 4. Chapter four hundred twenty-eight A (428A), Code 1977, is amended by adding the following new section:

NEW SECTION. Any person who willfully enters false information on the declaration of value shall be guilty of a simple misdemeanor.

All information obtained from a declaration of value submitted under the provisions of this Act is confidential, except that information contained in the declaration which is deemed to be a public record, and any person who divulges any information obtained from the declaration of value which is confidential under the provisions of this Act to unauthorized persons shall be guilty of a simple misdemeanor. For purposes of this section, "unauthorized person" means any person except a buyer or seller or their designees, a county or city assessor and their employees, a county recorder and the county recorder's employees, the director of revenue, persons in the department of revenue designated by the director, the state board of tax review, local boards of review, other tax officials and the courts in the exercise of their official duties. This section shall not prohibit persons initiating protests of assessment pursuant to section four hundred forty-one point thirty-seven (441.37) of the Code and protests of equalization actions pursuant to section four hundred forty-one point forty-eight (441.48) of the Code from obtaining information from the declarations of value that is necessary and reasonable for statutory protest and subsequent appeal proceedings nor shall this section prohibit the department of revenue from preparing and publishing annual assessment/sales ratio summaries as required by section four hundred twenty-one point seventeen (421.17), subsection six (6), of the Code.

Nothing in this section shall be construed to make confidential any information which does not appear on the face of the declaration of value or is not obtained directly from the declaration of value and further that all records deemed to be public records under the provisions of chapter sixty-eight A (68A) of the Code shall not be deemed confidential under the provisions of this Act.

Sec. 5. The provisions of this Act shall become effective January 1, 1979.

Approved May 4, 1978

CHAPTER 1149
RAILROAD TAXATION

S. F. 2184

AN ACT relating to railroads, making an appropriation and providing penalties for violations.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act unless the context otherwise requires:

1. "Car company" means freight line and equipment car companies.
2. "Company" means a sole proprietorship, partnership, limited partnership, corporation or other business entity.
3. "Freight line company" means a company engaged in the business of operating cars not otherwise listed for taxation or taxed in this state for the transportation of freight over any railway line located within this state, if such line is not owned, leased or operated by such company.
4. "Equipment car company" means every company engaged in the business of furnishing or leasing cars to be used in the operation of any railway line located within this state, if such line is not owned, leased or operated by such company and the cars are not otherwise listed for taxation in this state.
5. "Car" means all railroad cars whether termed box, flat, coal, ore, tank, gondola, refrigerator or another name.
6. "Director" means the director of revenue.
7. "Department" means the department of revenue.
8. "Railway" means companies subject to taxation under chapter four hundred thirty-four (434) of the Code.
9. "Miles" or "mileage" means loaded miles of each railroad car whether in intrastate or in interstate commerce traveled in or through the state.
10. "Base year" means the calendar year immediately preceding the year in which the tax return is required to be filed under this Act.

Sec. 2. NEW SECTION. TAX IMPOSED. A tax is hereby imposed on the mileage of freight line and equipment car companies at a rate of one and one-fourth cent per mile and shall apply to all mileage traveled in or through this state during the base year. The cars of the car companies subject to this

tax shall not be subject to a property tax, nor shall the rental of such cars be subject to any sales or use tax.

Sec. 3. NEW SECTION. RETURNS. Each car company subject to taxation under this Act shall annually file a return on or before the first Monday in June. The return shall include a true and accurate statement of the miles traveled in or through this state during the base year on railway lines not owned or operated by the car company. The return shall also include the following:

1. The name of the car company.
2. The nature of the company and its business.
3. The address of the individual to be contacted concerning the return.
4. The railroad company for which the Iowa miles were traveled.
5. An attestation as to the accuracy of the return.

Sec. 4. NEW SECTION. PAYMENT OF TAX. The tax due shall be paid in full and shall accompany the return required to be filed by section three (3) of this Act. If payment does not accompany the return or payment is not in the amount shown due and payable on the return, the company shall be subject to interest at the rate of three-fourths of one percent per month or fraction thereof on the balance due.

Sec. 5. NEW SECTION. PENALTY. In case of failure to file a return with the department on or before the due date, unless it is shown that such failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit the tax due with the filing of the return on or before the due date, or fails to pay the total amount of the tax due as shown on the return, there shall be added to the tax a penalty of five percent of the tax due unless it is shown that such failure was due to reasonable cause. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty above provided, there shall be added to the amount required to be shown as tax on such return fifty percent of the amount of such tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on

the return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

Sec. 6. NEW SECTION. DETERMINATION OF TAX DUE--LIMITATION. The department shall have three years from the time the return was filed or after the return became due, including any extensions of time for filing, whichever time is the later, to audit the return and determine its accuracy. If it is shown by the audit that additional tax is due, interest at the rate of three-fourths of one percent per month or fraction thereof shall be added to the additional tax shown to be due.

The period for determination of tax due shall be unlimited in the case of a false or fraudulent return with intent to evade tax or in the case of failure to file a return.

If it is shown that an overpayment was made, interest at the rate of three-fourths of one percent per month or fraction thereof shall be added to the overpayment with interest commencing sixty days after the date of payment.

The railway companies, submitting mileage pertaining to the car companies subject to the tax imposed by this Act, shall make available, at the department's request, their books or records to ascertain the correct mileage.

Car companies submitting returns under this Act shall also make available, at the department's request, their books or records to ascertain the correct mileage.

Sec. 7. NEW SECTION. REFUNDS. If any tax, penalty or interest has been paid which was not due under the provisions of this Act, then such amount plus any interest imposed as a result of section six (6) of this Act shall be credited against any tax due or to become due under this Act from the car company which made the erroneous payment or shall be refunded to such car company by the department. A claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due or one year after such tax payment was made, whichever time is the later, shall not be allowed by the director.

***Sec. 8. NEW SECTION. DEPOSIT OF FUNDS. All revenues collected from the tax imposed under this Act shall be credited to the railroad assistance fund established pursuant to section three hundred twenty-seven H point eighteen (327H.18) of the Code. All taxes paid after the due date, including penalty

***Item veto

and interest shall also be credited to the railroad assistance fund except as otherwise provided in this section. All moneys refunded under the provisions of this Act shall be paid from the railroad assistance fund. There is appropriated from the general fund of the state to the railroad assistance fund for the fiscal year beginning July 1, 1978 and for each succeeding fiscal year the sum of one million seven hundred thousand (1,700,000) dollars. If the revenues collected, including interest and penalties, less any refunds made for taxes payable on or before the first Monday of June of the preceding fiscal year exceed eight hundred thousand (800,000) dollars such excess, not to exceed the amount of the appropriation made under this section, shall be transferred to the general fund of the state.***

Sec. 9. NEW SECTION. STATUTES APPLICABLE TO TAX. All the provisions of section four hundred twenty-two point twenty-six (422.26), as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-one (121), section one (1), and sections four hundred twenty-two point twenty-eight (422.28) to four hundred twenty-two point thirty (422.30) of the Code, consistent with the provisions of this Act, shall be applicable to car companies subject to the tax imposed under section two (2) of this Act.

Sec. 10. Section four hundred twenty-seven A point one (427A.1), subsection one (1), paragraph h, Code 1977, is amended to read as follows:

h. Property assessed by the department of revenue pursuant to sections 428.24 to 428.29, or chapters 433, four hundred thirty-four (434) and four hundred thirty-six (436) of the Code to 438.

Sec. 11. Section four hundred forty-three point twenty-two (443.22), Code 1977, is amended to read as follows:

443.22 UNIFORM ASSESSMENTS MANDATORY. All assessors and assessing bodies, including the department of revenue having authority over the assessment of property for tax purposes, shall comply with the provisions of sections 428.4, 428.29, 434.15, ~~435.77~~ 438.13, 441.21, 441.45 and 443.5. The department of revenue having authority over such assessments, shall exercise its powers and perform its duties under section 421.17 and other applicable laws so as to require the uniform and consistent application of said section.

Sec. 12. The state department of transportation shall conduct a study of the feasibility and methods of establishing an authority for the bonding, purchase and lease of railroad

***Item veto

cars for the transportation of commodities within and without the state of Iowa. The department shall consult with various persons and groups and shall consider:

1. The constitutional and legal obstacles to bonding for railroad car purchases.
2. The methods of integrating the expertise of the state department of transportation with the authority established to implement the bonding, purchase and lease of railroad cars.
3. The tax status of railroad cars leased by the bonding authority.
4. The economic feasibility of a purchase and lease program and the bonding limitations necessary for such an authority.
5. The methods of managing a pool of cars owned by the authority.

The state department of transportation shall consult with people familiar with the rail transportation industry, with agricultural product transportation needs, with management and marketing practices, and with farming and manufacturing concerns, to assess the utility of the bonding for the purchase and lease of railroad cars.

The state department shall make recommendation to the general assembly prior to February 1, 1979, to include an evaluation of the needs for and feasibility of a railroad car authority. The department shall include evaluations of the feasible alternative forms of a railroad car authority.

Sec. 13. Chapter four hundred thirty-five (435), Code 1977, is repealed.

Sec. 14. The provisions of this Act are effective for all taxes due on or before the first Monday in June, 1978, and thereafter.

Sec. 15. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Titonka Topic, a newspaper published in Titonka, Iowa, and in The Bancroft Register, a newspaper published in Bancroft, Iowa.

Approved June 26, 1978, except the item designated as Section 8 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit Senate File 2184, an act relating to railroads, making an appropriation and providing penalties for violations.

Senate File 2184 is approved June 26, 1978, with the following exception which I hereby disapprove.

I am unable to approve the item designated in the Act as Section 8 which reads as follows:

Sec. 8. NEW SECTION. DEPOSIT OF FUNDS. All revenues collected from the tax imposed under this Act shall be credited to the railroad assistance fund established pursuant to section three hundred twenty-seven H point eighteen (327H.18) of the Code. All taxes paid after the due date, including penalty and interest shall also be credited to the railroad assistance fund except as otherwise provided in this section. All moneys refunded under the provisions of this Act shall be paid from the railroad assistance fund. There is appropriated from the general fund of the state to the railroad assistance fund for the fiscal year beginning July 1, 1978 and for each succeeding fiscal year the sum of one million seven hundred thousand (1,700,000) dollars. If the revenues collected, including interest and penalties, less any refunds made for taxes payable on or before the first Monday of June of the preceding fiscal year exceed eight hundred thousand (800,000) dollars such excess, not to exceed the amount of the appropriation made under this section, shall be transferred to the general fund of the state.

This section endeavors to earmark yet another portion of state revenues for a particular program--the very successful railroad branch line revitalization program. The language, in effect, guarantees that each year \$1.7 million from the general fund will be available for branch line renovations plus another \$800,000 from the receipts of the equipment car tax.

As I have previously stated, earmarking tax funds for a specific program in most cases is poor public policy. The recipient government program is removed from the regular budget process. Accountability in government, which taxpayers expect and deserve, is based in great part on the scrutiny the executive and legislative branches employ during the budget process. When blanket future approval is given to the funding of a program, the careful and thorough review of its cost-effectiveness and worthiness is not maintained. Since future funding is guaranteed, the program directors can easily forget that they have a primary responsibility to the public and its elected representatives.

It puzzles me that some legislators would want to earmark tax receipts for the branch line program. They are often the same legislators who insist on closer scrutiny of state expenditures and programs. The advocates of performance auditing should find earmarked taxes repugnant.

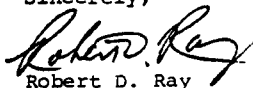
Furthermore, the railroad branch line revitalization program does not need to be dependent upon the crutch of an earmarked tax. The branch line revitalization program has been one of the most successful initiatives launched by state government.

When we proposed the branch line program in 1974, there were some legislators who fought it. However, I believe that most have since come to recognize the revitalization program as an outstanding success and one emulated across the nation. My support for our branch line initiative remains steadfast as we see the positive results of how government can stimulate cooperation among and with private enterprise without having to run the program itself. I don't believe there is much danger of this program losing its support in the legislature so long as it continues to produce effective results.

It should be noted that another bill, House File 2290, does contain the appropriation of \$1.7 million we recommended for the branch line revitalization program in FY 1979. That appropriation has been approved by me today and will be added to the other funds available for the continuation of the program during the upcoming year.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 2184 are hereby approved as of this date.

Sincerely,



Robert D. Ray
Governor

I hereby certify that the foregoing Act, Senate File 2184, and Governor Robert D. Ray's item veto message were published in entirety in *The Titonka Topic*, Titonka, Iowa on July 6, 1978 and in *The Bancroft Register*, Bancroft, Iowa on July 5, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1150

ASSESSORS

S. F. 221

AN ACT relating to the examination, certification, appointment, and duties of assessors.

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

Section 1. Section four hundred forty-one point six (441.6), Code 1977, is amended to read as follows:

441.6 APPOINTMENT OF ASSESSOR. When a vacancy occurs in the office of city or county assessor, the examining board shall, within seven days of the occurrence of the vacancy, request the director of revenue to forward a register containing the names of all individuals eligible for appointment as assessor. The examining board may, at its own expense, conduct a further examination, either written or oral, of any person whose name appears on the register, and shall make written report of the examination and submit the report together with the names of those individuals certified by the director of revenue to the conference board within fifteen days after the receipt of the register from the director of revenue.

~~Not later than seven days after~~ Upon receipt of the report of the examining board, the ~~chairman~~ chairperson of the conference board shall by written notice call a meeting of the conference board to appoint an assessor. The meeting shall be held not later than seven days after the receipt of the report of the examining board by the conference board. The physical condition, general reputation of the applicants, and their fitness for the position as determined by the examining board shall be taken into consideration in making the appointment. At the meeting, the conference board shall appoint an assessor from the register of eligible candidates. However, if a special examination has not been conducted previously for the same vacancy, the conference board may request the director of revenue to hold a special examination pursuant to section four hundred forty-one point seven (441.7) of the Code. The ~~chairman~~ chairperson of the conference board shall give written notice to the director of revenue of the appointment and its effective date within ten days of the decision of the board.

Sec. 2. Section four hundred forty-one point seven (441.7), Code 1977, is amended to read as follows:

441.7 SPECIAL EXAMINATION. If the conference board fails to appoint an assessor from the list of individuals on the register, the ~~examining~~ conference board shall request permission from the director of revenue to hold an a special examination in the particular city or county in which the vacancy has occurred. Permission may be granted by the director of revenue after consideration of factors such as the availability of candidates in that particular city or county. The director of revenue shall conduct no more than one special examination for each vacancy in an assessing jurisdiction. The examination shall be conducted by the director of revenue as provided in section 441.5, except as otherwise provided in this section. The examining board shall give notice of holding the examination for assessor by posting a written notice in a conspicuous place in the county courthouse in the case of county assessors or in the city hall in the case of city assessors, stating that at a specified date, an examination for the position of assessor will be held at a specified place. Similar notice shall be given at the same time by one publication of the notice in three newspapers of general circulation in the case of a county assessor, or in case there are not three such newspapers in a county, then in newspapers which are available, or in one newspaper of general circulation in the city in the case of city assessor. The conference board of the city or county in which a special examination is held shall reimburse the department of revenue for all expenses incurred in the administration of the examination, to be paid for by the respective city or county assessment expense fund. Following the administration of this special examination, the director of revenue shall certify to the examining board a new list of candidates eligible to be appointed as assessor and the examining board and conference board shall proceed in accordance with the provisions of section four hundred forty-one point six (441.6) of the Code.

Sec. 3. Section four hundred forty-one point eight (441.8), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

441.8 TERM--FILLING VACANCY. The term of office of an assessor appointed under this chapter shall be for six years. Appointments for each succeeding term shall be made in the

same manner as the original appointment except that not less than ninety days before the expiration of the term of the assessor the conference board shall hold a meeting to determine whether or not it desires to reappoint the incumbent assessor to a new term.

Effective January 1, 1980, the conference board shall have the power to reappoint the incumbent assessor only if the incumbent assessor has satisfactorily completed the continuing education program provided for in this section.

The commission established by this section shall develop and administer a program of continuing education which shall emphasize assessment and appraisal procedures, and the assessment laws of this state, and which shall include the subject matter specified in section four hundred forty-one point five (441.5) of the Code.

There is created a commission consisting of the director of revenue, two Iowa assessors appointed by the executive board of the Iowa state association of assessors, and one member appointed by the state board of tax review, and three lay persons appointed by the governor to four year terms subject to the approval of two-thirds of the members of the senate. A majority of the members of the board shall constitute a quorum. The lay persons appointed to the commission who are not public employees shall be paid a forty dollar per diem and shall be reimbursed for actual and necessary expenses incurred while on official commission business. All compensation and reimbursements shall be paid by the department of revenue from the appropriation made to it for the fiscal year in which the claim for per diem or expenses is made.

The commission shall establish or designate the courses to be offered as part of the continuing education program, the content of said courses, and the number of hours of classroom instruction for each course. At least once each year the commission shall meet to evaluate the continuing education program and make necessary changes in the program.

Upon the successful completion of each course contained in the program of continuing education, as demonstrated by attendance at sessions of the course and attaining a grade of at least seventy percent on an examination administered at the conclusion of the course, the assessor shall receive credit equal to the number of hours of classroom instruction contained in said course. An assessor shall not be allowed to obtain credit for a course for which the assessor has

previously received credit during his or her current term of office except for those courses designated by the commission. The examinations shall be confidential to the commission and persons designated by the commission to have access to said examinations.

Upon receiving credit equal to two hundred forty hours of classroom instruction during the assessor's current term of office, the commission shall certify to the assessor's conference board that said assessor is eligible to be reappointed to his or her present position. For assessors whose present terms of office expire before six years from the effective date of this Act, or who are appointed to complete an unexpired term, the number of credits required to be certified as eligible for reappointment shall be prorated according to the amount of time remaining in the present term of said assessor.

Within each six-year period following January 1, 1980 or the appointment of a deputy assessor appointed after the effective date of this Act, said deputy assessor shall comply with the provisions of this section except that upon the successful completion of one hundred fifty hours of classroom instruction said deputy assessor shall be certified by the commission as being eligible to remain in his or her present position. In the event a deputy assessor fails to comply with the provisions of this section, said deputy assessor shall be removed from his or her present position.

Each conference board shall include in the budget for the operation of the assessor's office funds sufficient to enable the assessor and any deputy assessor to obtain certification as provided in this section. The conference board shall also allow the assessor and any deputy assessor sufficient time off from his or her regular duties to obtain certification. The commission shall adopt rules pursuant to chapter seventeen A (17A) of the Code to implement and administer the provisions of this section.

If the incumbent assessor is not reappointed as above provided, then not less than sixty days before the expiration of the term of said assessor, a new assessor shall be selected as provided in section four hundred forty-one point six (441.6) of the Code.

In the event of the removal, resignation, death, or removal from the county of the said assessor, the conference board shall proceed to fill the vacancy by appointing an assessor

to serve the unexpired term in the manner provided in section four hundred forty-one point six (441.6) of the Code. Until the vacancy is filled, the chief deputy shall act as assessor, and in the event there be no deputy, in the case of counties the auditor shall act as assessor and in the case of cities having an assessor the city clerk shall act as assessor.

Sec. 4. Section four hundred forty-one point eleven (441.11), Code 1977, is amended to read as follows:

441.11 ~~INCUMBENT DEPUTY ASSESSORS AND DEPUTIES.~~ The director of revenue shall grant a restricted certificate to any ~~city-or-county-assessor-or~~ deputy assessor holding office as of January 1, 1976. ~~An-assessor-possessing-such-a certificate-shall-be-considered-eligible-to-remain-in-his-or-her-present-position-and-to-be-reappointed-to-that-position-as-provided-in-section-441.8-and-441.10.~~ A deputy assessor possessing such a certificate shall be considered eligible to remain in his or her present position. To become eligible for another ~~assessor-or~~ deputy assessor position, ~~however,~~ ~~an-assessor-or~~ a deputy assessor presently holding office is required to obtain certification as provided for in section 441.5.

Sec. 5. This Act is effective January 1, 1979.

Sec. 6. Section four hundred forty-one point twenty-three (441.23), Code 1977, is amended to read as follows:

441.23 NOTICE OF VALUATION. If there has been an increase or decrease in the valuation of the property, or upon the written request of the person assessed, the assessor shall, at the time of making the assessment, inform the person assessed, in writing, of the valuation put upon ~~his~~ the taxpayer's property, and notify ~~him~~ the person, if he or she feels aggrieved, to appear before the board of review and show why the assessment should be changed. In odd-numbered years, the owners of real property shall be notified not later than April ~~15~~ fifteenth of any adjustment of the real property assessment. In even-numbered years, the notice of an increase or decrease in the valuation of the property shall be provided to the owners of real property not later than June ~~30~~ thirtieth as provided in section 441.49.

Sec. 7. The provisions of this Act notwithstanding, section six (6) of this Act shall become effective January 1, 1980.

Approved June 22, 1978

CHAPTER 1151
VALUATION OF PROPERTY

H. F. 2190

AN ACT relating to valuation of property by providing for the determination of the amount of the increase of the assessed valuation of agricultural property and residential property as of January 1, 1978 and January 1, 1979 and providing that equalization orders and the percentages of actual value determined by the director of revenue are not rules under the Iowa administrative procedure Act.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-three (43), section twenty (20), the second new unnumbered paragraph, amending section four hundred forty-one point twenty-one (441.21), Code 1977, is amended to read as follows:

For valuations established as of January 1, 1979, the percentage of actual value at which agricultural and residential property shall be assessed shall be the quotient of the dividend and divisor as defined in this section. The dividend for each class of property shall be the dividend as determined for each class of property for valuations established as of January 1, 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, plus six percent of the amount so determined. However, if the difference between the dividend so determined for either class of property and the dividend for that class of property for valuations established as of January 1, 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, is less than six percent, the 1979 dividend for the other class of property shall be the dividend as determined for that class of property for valuations established as of January 1, 1978, adjusted by

the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, plus a percentage of the amount so determined which is equal to the percentage by which the dividend as determined for the other class of property for valuations established as of January 1, 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1978, is increased in arriving at the 1979 dividend for the other class of property. The divisor for each class of property shall be the total actual value of all such property in the state in the preceding year, as reported by the assessors on the abstracts of assessment submitted for 1978, plus the amount of value added to said total actual value by the revaluation of existing properties in 1979. The director shall utilize information reported on abstracts of assessment submitted pursuant to section four hundred forty-one point forty-five (441.45) of the Code in determining such percentage.

Sec. 2. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-three (43), section twenty (20), is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. For valuations established as of January 1, 1978, upon which taxes will be levied for the fiscal year beginning in the 1978 calendar year by any special charter city that levies and collects its own taxes, agricultural and residential property shall be assessed at a percentage of the actual value of each class of property. For residential property, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend shall be the total value of residential property in the special charter city as of January 1, 1977, adjusted for additions and deletions to said value excluding those resulting from the revaluation of existing properties, as determined by the city assessor in completing reassessment of such property as of January 1, 1978, plus six percent of the 1977 value of such property or the amount of value added by the revaluation of existing properties in 1978, whichever is less. The divisor shall be the total value of such property in the special charter city as determined by the assessor

as of January 1, 1977, plus the amount of value added in 1978 by the revaluation of existing property.

NEW UNNUMBERED PARAGRAPH. For agricultural property, the percentage shall be determined by the director of revenue and shall be based upon all available information. The percentage shall be an estimate of the percentage of actual value at which all agricultural property in the state will be assessed for 1978 as provided by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-three (43), section twenty (20). The director of revenue shall certify the percentage determined pursuant to this paragraph to the governing body of the special charter city on or before May 31, 1978. The appropriate officials of the special charter city shall proceed to determine the assessed values of agricultural property by applying such percentages to the current actual value of such property, as reported by the assessor, and the assessed values so determined shall be the taxable values of such properties upon which the levy shall be made by the special charter city.

NEW UNNUMBERED PARAGRAPH. For valuations established as of January 1, 1979, against which taxes will be levied for the fiscal year beginning in the 1979 calendar year by any special charter city that levies and collects its own taxes, the percentage of actual value at which agricultural and residential property shall be assessed shall be the quotient of the dividend and divisor as defined in this section. The dividend for each class of property shall be the valuation for each class of property for valuations established as of January 1, 1978, and upon which any special charter city levied its taxes in 1978, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessor on the abstract of assessment for 1978, plus six percent of the amount so determined. The divisor for each class of property shall be the total actual value of all such property in the city in the preceding year, as reported by the assessor on the abstract of assessment submitted for 1978, plus the amount of value added to said total actual value by the revaluation of existing properties in 1979. However, if the estimated statewide growth in assessed valuation is less than six percent for either class of property for 1979, the director shall

estimate the percentages by which the statewide valuation of residential and agricultural property will increase in 1979. The lower percentage shall be used in lieu of six percent for both classes of property in calculating the percentages at which agricultural and residential property shall be assessed. The percentage at which agricultural and residential property shall be assessed will be certified by the director on or before May 31, 1979 to the appropriate city official in special charter cities that levy and collect their own taxes.

Sec. 3. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter forty-three (43), section twenty (20), is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The percentage of actual value computed by the director for agricultural and residential property and used to determine assessed values of those classes of property does not constitute a rule as defined in section seventeen A point two (17A.2), subsection seven (7), of the Code.

Sec. 4. Section four hundred forty-one point forty-nine (441.49), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Tentative and final equalization orders issued by the director of revenue are not rules as defined in section seventeen A point two (17A.2), subsection seven (7), of the Code.

Sec. 5. The provisions of section two (2) of this Act relating to the determination of valuations of agricultural and residential property in a special charter city shall apply only to the determination of valuations of agricultural and residential property against which the corporate levy of the special charter city shall be applied.

Sec. 6. It is the intent of the general assembly that any special charter city which does not conform with regard to the assessment and tax collection schedule to the assessment and tax collection schedule followed by all other political subdivisions of the state shall take such action as is necessary to reform its assessment and tax collection schedule to the assessment and tax collection schedule followed by the other political subdivisions of the state by not later than for assessments beginning January 1, 1980.

Sec. 7. This Act, being deemed of immediate importance, shall take effect and be in force from and after its

publication in The Hamburg Reporter, a newspaper published in Hamburg, Iowa, and in the Bellevue Herald-Leader, a newspaper published in Bellevue, Iowa.

Approved June 5, 1978

I hereby certify that the foregoing Act, House File 2190, was published in The Hamburg Reporter, Hamburg, Iowa on June 15, 1978, and in the Bellevue Herald-Leader, Bellevue, Iowa on June 15, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1152

SCHOOL DISTRICT SURTAX MONEYS

S. F. 2054

AN ACT relating to the deposit of school district income surtax moneys.

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

Section 1. Section four hundred forty-two point eighteen (442.18), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Effective July 1, 1980, the director of revenue shall deposit all school district income surtax moneys received on or before November first of the year following the close of the school budget year for which the surtax is imposed to the credit of each district from which the moneys are received in the school district income surtax fund. All school district surtax moneys received or refunded after November first of the year following the close of the school budget year for which the surtax is imposed shall be deposited in or withdrawn from the general fund of the state and shall be considered part of the cost of administering the school district surtax.

Sec. 2. The department of revenue shall, not later than January 15, 1980, submit a report to the general assembly specifying the amount of school district income surtax moneys

credited to the school district income surtax fund after November 1, 1978 and November 1, 1979 which were attributed to individual income tax returns filed and received in 1978 and 1979 respectively after the date on which such returns shall have been filed. The report shall also specify the amount of school district income surtax moneys received or refunded as a result of an audit or from the filing of amended returns. The report shall specify the names of each school district which has imposed a school district income surtax and the amount of additional income surtax moneys received from late filed returns and received or refunded from audited and amended returns and the administrative costs incurred by the department in processing these returns and the issuance of warrants to the respective school districts which have received additional surtax moneys from late filed returns and audited and amended returns.

Sec. 3. The provisions of section one (1) of this Act shall be effective July 1, 1980 for all state individual income tax returns filed on or after July 1, 1980.

Approved June 13, 1978

CHAPTER 1153

INHERITANCE TAX HARDSHIP CASES

H. F. 68

AN ACT relating to the time period in which the director of revenue may extend the payment of inheritance taxes for hardship cases.

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

Section 1. Section four hundred fifty point six (450.6), Code 1977, is amended to read as follows:

450.6 ACCRUAL OF TAX--MATURITY--EXTENSION OF TIME. The tax hereby imposed shall be for the use of the state, shall accrue at the death of the decedent owner, and shall be paid to the department of revenue within twelve months after the death of the decedent owner except when otherwise provided in this chapter. When in the opinion of the director of revenue additional time should be granted for payment to avoid hardship, the director may extend the period to a date not exceeding three ten years from the date of death of the decedent. ~~7.~~ but-in In the case of any such extension the tax

shall bear six percent interest from the expiration of twelve months from the date of the decedent's death.

Sec. 2. This Act is effective January 1, 1978.

Approved May 5, 1978

CHAPTER 1154

PROBATE

S. F. 2104

AN ACT relating to the Iowa probate code.

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

Section 1. Section four hundred fifty point seven (450.7), subsection three (3), Code 1977, is amended to read as follows:

3. The sale, exchange, mortgage, or pledge of property by the personal representative pursuant to a testamentary direction or power, pursuant to section six hundred thirty-three point three hundred eighty-seven (633.387) of the Code, or under order of court, divests the property from the lien of the tax. The proceeds from such a sale, exchange, mortgage, or pledge shall be held by the personal representative subject to the same priorities for the payment of the tax as existed with respect to the property before the transaction, and the personal representative is personally liable for payment of the tax to the extent of the proceeds. Whenever there is a change in the status, type, or nature of the assets reported in the preliminary inventory, the change shall be reported on or before the filing of the final report when required by the department of revenue.

Sec. 2. Section four hundred fifty point twelve (450.12), subsection one (1), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

Said debts shall not be deducted unless the personal representative certifies that the same have been paid or allowed in accordance with the provisions of sections six hundred thirty-three point four hundred twenty-eight (633.428), six hundred thirty-three point four hundred thirty-one (633.431), six hundred thirty-three point four hundred thirty-two (633.432), six hundred thirty-three point four hundred thirty-three (633.433), six hundred thirty-three point four hundred thirty-four (633.434), six hundred thirty-three point

four hundred thirty-five (633.435), and six hundred thirty-three point four hundred forty-eight (633.448), within twelve months from the date of death of the decedent, unless otherwise ordered by the court.

Sec. 3. Section six hundred thirty-three point three (633.3), subsection eight (8), is amended to read as follows:

8. COSTS OF ADMINISTRATION--includes court costs, fiduciary's fees, attorney fees, all appraisers' fees, premiums on corporate surety bonds, statutory allowance for support of surviving spouse and children, cost of continuation of abstracts of title, recording fees, transfer fees, transfer taxes, agents' fees allowed by order of court, interest expense, including, but not limited to, interest payable on extension of federal estate tax, and all other fees and expenses allowed by order of court in connection with the administration of the estate. Court costs shall include expenses of selling property.

Sec. 4. Section six hundred thirty-three point six hundred ninety-nine (633.699), subsection six (6), paragraph b is amended to read as follows:

b. Directly for the maintenance, ~~welfare~~, and education of the beneficiary;

Sec. 5. Section six hundred thirty-three point seven hundred four (633.704), subsections three (3) and four (4), Code 1977, are amended to read as follows:

3. EFFECTIVE DISCLAIMER. Unless the decedent or donee of the power has otherwise provided, the property or part thereof or interest therein disclaimed, and any further future interest which is to take effect in possession or enjoyment at or after the termination of the interest disclaimer, shall descend or be distributed as if the disclaimant has predeceased the decedent, or if the disclaimant is one designated to take pursuant to a power of appointment, exercised by testamentary instrument, then as if the disclaimant has predeceased the donee of the power. In every case, the disclaimer shall be related back for all purposes to the date of the death of the decedent or the donee, as the case may be. In the case of a devisee, the interest disclaimed shall descend pursuant to section 633.273. A person who has a present and a future interest in property and disclaims his or her present interest in whole or in part, shall be deemed to have disclaimed his or her future interest to the same extent. In the event of death of the disclaimant within the time allowed for the filing of a disclaimer, the right to disclaim shall terminate.

In the event of disability of a person entitled to disclaim, the court may authorize or direct a conservator or guardian to exercise the right to disclaim on behalf of the person under disability when it is in his or her interest that it be done.

4. WAIVER AND BAR. Any assignment, conveyance, encumbrance, pledge or transfer of property or any interest therein or any contract therefor, or any written waiver of the right to disclaim or any acceptance ~~or~~ of property or interest therein by an heir, next of kin, devisee, legatee, donee, person succeeding to a disclaimed interest, beneficiary or person designated to take pursuant to a power of appointment exercised by testamentary instrument, and any sale of property by execution, made before the expiration of the period in which a person may disclaim as provided in this section, bars the right to disclaim the property. An election by a surviving spouse under sections six hundred thirty-three point two hundred thirty-six (633.236) through six hundred thirty-three point two hundred forty-six (633.246) inclusive shall not be a waiver or bar of the right to disclaim. The right to disclaim granted by this section shall exist irrespective of any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction. A disclaimer, when filed and recorded as provided in this section or a written waiver of the right to disclaim, shall be binding upon the disclaimant or person waiving and all parties claiming by, through or under him or her. The right to disclaim shall follow the proceeds of a disposition of property by a fiduciary, and shall not affect the disposition.

Sec. 6. This Act is effective January 1, 1979.

Approved June 5, 1978

CHAPTER 1155

INHERITANCE TAX DEDUCTIONS

H. F. 415

AN ACT relating to the deduction of debts and property taxes for inheritance tax purposes.

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

Section 1. Section four hundred fifty point twelve (450.12), subsection one (1), Code 1977, is amended to read as follows:

1. From the estate of such decedent who at the time of his death was domiciled within this state, there shall be deducted the debts owing by the decedent at the time of his death, the local and state taxes due from the estate ~~in January of the year of his death~~ and payable during the fiscal year beginning July first in which the decedent's death occurs, and federal taxes owing by the decedent or paid from the estate on Iowa property, a reasonable sum for funeral expenses, temporary allowances as provided in sections 633.374 to 633.377, and as granted by the probate court or judge thereof, court costs, the cost of appraisal made for the purpose of assessing the inheritance tax, the fee of executors, administrators, or trustees as allowed by order of court, the amount paid by the executor or administrator for a bond, the attorney fee in a reasonable amount to be approved by the court for the probate proceedings in said estate the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses, and no other sum; provided, however, that the debt of such decedent owing for or secured by property outside of this state, shall not be deducted before estimating the tax, except when the property for which the debt is owing or by which it is secured is subject to the tax imposed by this chapter, or when the foreign debt exceeds the value of the property securing it or for which it was contracted, when the excess may be deducted, provided that satisfactory proof of the value of the foreign property and the amount of such debt is furnished to the director of revenue.

Said debts shall not be deducted unless the same are approved and allowed by the court within eighteen months from the death of the decedent, unless otherwise ordered by the

judge or court of the proper county.

Sec. 2. Section four hundred fifty point twelve (450.12), subsection two (2), Code 1977, is amended to read as follows:

2. From the estate of such decedent who at the time of his death is domiciled outside of this state, the director of revenue shall deduct such debts and expenses as are chargeable to the property under the laws of this state, provided that in the event that the executor, administrator, or trustee of such foreign estate files with the clerk of the court having ancillary jurisdiction and with the department of revenue, or with the department of revenue in case there is no administration of the estate within this state, a duly certified statement exhibiting the true market value of the entire estate of the decedent owner, and the indebtedness for which the said estate has been adjudged liable, which statement shall be duly attested by the judge of the court having original jurisdiction, the beneficiaries of the said estate shall then be entitled to have deducted such proportion of the said indebtedness of the decedent from the value of the property as the value of the property within this state bears to the value of the entire estate. However, a debt as defined in this section shall not be allowed as a deduction under subsections one (1) and two (2) of this section if attributable to, or paid, secured, or set off by property not subject to taxation under this chapter, except to the extent of the excess of the debt, over the value or amount of the exempt property, or the proportions of the debt not attributable to the exempt property.

Sec. 3. This Act is effective January 1, 1979.

Approved March 22, 1978

CHAPTER 1156

INHERITANCE TAX LIFE AND TERM ESTATES

H. F. 411

AN ACT relating to the date upon which the inheritance tax on life estates in real and personal property is due and making the Act retroactive.

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

Section 1. Section four hundred fifty point forty-five (450.45), Code 1977, is amended to read as follows:

450.45 LIFE AND TERM ESTATES--APPRAISEMENT. Subject to the provisions of section 450.39 when an estate or interest for life or term of years in real property is given to a party other than those especially exempt by this chapter, the clerk shall cause the property to be appraised at the actual market value thereof, as is provided in ordinary cases, and the party entitled to the estate or interest shall, within ~~fifteen~~ twelve months from the death of decedent owner, pay the tax, and in default thereof the court shall order the estate or interest, or so much thereof as necessary to pay the tax and interest, to be sold.

Sec. 2. Section four hundred fifty point forty-seven (450.47), Code 1977, is amended to read as follows:

450.47 LIFE AND TERM ESTATES IN PERSONAL PROPERTY. Subject to the provisions of section 450.39, when an estate or interest for life or term of years in personal property is given to one or more persons other than those especially exempt by this chapter and the remainder or deferred estate to others, the clerk shall cause the property devised or conveyed to be appraised as provided herein in ordinary estates and the value of the several estates or interests devised or conveyed shall be determined as provided in section 450.51, and the tax upon such estates or interests as are liable for the tax imposed by this chapter shall be paid to the department of revenue from the property appraised or by the persons entitled to the estate or interest within ~~fifteen~~ twelve months from the death of the testator, grantor, or donor; provided, however, that payment of the tax upon any deferred estate or remainder interest may be deferred until the determination of the prior estate by the giving of a good and sufficient bond as provided in section 450.48.

Sec. 3. The provisions of this Act shall be retroactive

to July 1, 1977 for estates of decedents dying on or after July 1, 1977, and to this extent the provisions of this Act are retroactive.

Sec. 4. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Spirit Lake Beacon, a newspaper published in Spirit Lake, Iowa, and in The Clinton Herald, a newspaper published in Clinton, Iowa.

Approved March 17, 1978

I hereby certify that the foregoing Act, House File 411, was published in The Spirit Lake Beacon, Spirit Lake, Iowa on March 23, 1978, and in The Clinton Herald, Clinton, Iowa on March 22, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1157

INHERITANCE TAX STOCK TRANSFERS

H. F. 412

AN ACT relating to the reporting of stock transfers for inheritance tax purposes.

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

Section 1. Section four hundred fifty point eighty-eight (450.88), Code 1977, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The provisions of this section shall not apply if the lien has been released under the provisions of section four hundred fifty point seven (450.7) of the Code or the director has issued a consent to transfer.

Sec. 2. This Act is effective January 1, 1979.

Approved March 17, 1978

CHAPTER 1158

GENERATION SKIPPING TRANSFERS TAX

S. F. 2137

AN ACT relating to the imposition of a tax on generation skipping transfers and making the Act retroactive.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Generation skipping transfer" means the generation skipping transfer as defined in section two thousand six hundred eleven (2611) of the Internal Revenue Code of 1954.
2. "Internal Revenue Code of 1954" means the Internal Revenue Code of 1954 as defined in section four hundred twenty-two point four (422.4) of the Code.
3. "Deemed transferor" means the deemed transferor as defined in section two thousand six hundred twelve (2612) of the Internal Revenue Code of 1954.
4. "Director" means the director of the department of revenue.
5. "Generation skipping trust" means a generation skipping trust as defined in section two thousand six hundred eleven (2611) of the Internal Revenue Code of 1954.
6. "Generation skipping trust equivalent" means a generation skipping trust equivalent as defined in section two thousand six hundred eleven (2611) of the Internal Revenue Code of 1954.
7. "Distributee" means a person receiving property in a generation skipping transfer.
8. "Department" means the department of revenue.

Sec. 2. NEW SECTION. IMPOSITION OF TAX. A tax is hereby imposed on the transfer of any property, included in a generation skipping transfer occurring at the same time as, or after, the death of the deemed transferor, equal to the amount of the maximum federal credit allowable under section two thousand six hundred two (2602)(c) five (5) (C) of the Internal Revenue Code of 1954, for that portion of state estate, inheritance, legacy or succession tax paid in respect of any property included in the generation skipping transfer.

Where the deemed transferor is a resident of Iowa and all property included in a generation skipping transfer has a situs in Iowa, or is subject to the jurisdiction of the courts

of Iowa, an amount equal to the total credit as allowed under the Internal Revenue Code of 1954 shall be paid to the state of Iowa. Where the deemed transferor is a nonresident or where property included in a generation skipping transfer has a situs outside the state of Iowa and not subject to the jurisdiction of Iowa courts, the tax shall be pro-rated on the basis that the value of Iowa property included in the generation skipping transfer bears to the total value of property included in the generation skipping transfer.

Sec. 3. NEW SECTION. VALUE OF PROPERTY. The value of property, included in a generation skipping transfer, shall be the same as determined for federal generation skipping transfer tax purposes under the Internal Revenue Code of 1954.

Sec. 4. NEW SECTION. PAYMENT OF THE TAX. The tax imposed by this chapter shall be paid within twelve months after the death of the deemed transferor if the transfer occurs at that time, or if later, the day which is twelve months after the day on which such generation skipping transfer occurred. For purposes of this Act, any property transferred during the three year period ending on the date of the deemed transferor's death and which is included in a generation skipping transfer under the Internal Revenue Code of 1954 shall be considered as transferred on the deemed transferor's death.

Sec. 5. NEW SECTION. LIABILITY FOR THE TAX. The distributee of the property shall be personally liable for the tax to the extent of the fair market value, determined as of the time of the distribution, of the property received in the distribution. If the tax is attributable to a taxable termination, as defined in section two thousand six hundred thirteen (2613) of the Internal Revenue Code of 1954, the trustee shall be personally liable for the tax to the extent of the property subject to tax under the trustee's control.

Sec. 6. NEW SECTION. LIEN OF THE TAX. The tax imposed by this chapter shall be a lien on the property subject to the tax for a period of ten years from the time the generation skipping transfer occurs. Full payment of the tax due and interest, if any, shall release the lien and discharge the distributee and trustee of personal liability. Unless the lien has been perfected by recording, a transfer by the distributee or the trustee to a bona fide purchaser for value shall divest the property of the lien. If the lien is perfected by recording, the rights of the state under the lien have priority over all subsequent mortgages, purchases

or judgment creditors. The department may release the lien prior to payment of the tax due if adequate security for payment of the tax is given.

Sec. 7. NEW SECTION. DISPOSAL OF TAX. The proceeds of the tax shall be credited to the general fund of the state.

Sec. 8. NEW SECTION. RETURNS. It shall be the duty of the persons liable for the payment of the tax to file a return with the department, in such form as the director may prescribe, containing sufficient information to enable the department to determine the maximum federal credit allowable for the payment of the tax imposed by this chapter. A copy of the federal return filed for the purpose of paying the generation skipping transfer tax shall be submitted to the department at the time the Iowa return is filed. Copies of all amended or supplemental returns shall be submitted to the department at the time such returns are filed with the internal revenue service.

Sec. 9. NEW SECTION. DELINQUENT RETURNS. If the tax imposed by this chapter is not paid within the time prescribed by law, the tax shall be deemed delinquent and shall draw interest at the rate of eight percent per annum thereafter until paid.

Sec. 10. NEW SECTION. DIRECTOR TO ENFORCE COLLECTION. It shall be the duty of the director to enforce collection of the tax imposed by this chapter and shall with all the rights of a party in interest, represent the state in any proceedings to collect the tax. The director shall have the power to bring suit against any person liable for the payment of the tax, interest and costs and may foreclose the lien of the tax in the same manner as is now prescribed for the foreclosure of real estate mortgages and upon judgment may cause execution to be issued to sell so much of the property necessary to satisfy the tax, interest and costs due.

Sec. 11. NEW SECTION. DUTY TO CLAIM MAXIMUM CREDIT. It shall be the duty of any person liable for the payment of the tax to claim the maximum federal credit allowable for that portion of state estate, inheritance, legacy or succession tax paid in respect of any property included in a generation skipping transfer. Claiming on a federal return a sum less than the maximum federal credit allowable shall not relieve any person liable for the tax of the duty to pay the tax imposed under this chapter.

If an amended or supplemental return is filed with the

internal revenue service which results in a change in the amount of tax owing under this chapter, the persons liable for the payment of the tax shall submit an amended return, on forms prescribed by the director, indicating the amount of the tax then owing as a result of such change.

If any federal generation skipping transfer tax has been paid before the enactment of this Act, the persons liable for the payment of the tax under this Act shall file an amended federal return claiming the maximum federal credit allowable and file the Iowa returns specified in section eight (8) of this Act within six months after the enactment of this Act or within the time limit provided in section four (4) of this Act whichever is the later.

Sec. 12. NEW SECTION. APPLICABLE STATUTES. All of the provisions of chapter four hundred fifty (450) of the Code with respect to the payment and collection of the tax imposed under that chapter are hereby made applicable to the provisions of this chapter, except as the same may be in conflict hereof. The director shall adopt and promulgate all rules necessary for the enforcement of this chapter.

Sec. 13. The provisions of this Act are retroactive to April 30, 1976, for any generation skipping transfer made after April 30, 1976, except for those generation skipping transfers excepted under section two thousand six (2006) (c) of the Federal Tax Reform Act of 1976 and to this extent the provisions of this Act are retroactive.

Sec. 14. NEW SECTION. LIMITATION. The tax imposed under section two (2) of this Act shall not be construed to impose a federal and state generation skipping tax obligation greater than the tax payable had this Act not been enacted.

Sec. 15. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Winterset Madisonian, a newspaper published in Winterset, Iowa, and in the Cherokee Daily Times, a newspaper published in Cherokee, Iowa.

Approved April 21, 1978

I hereby certify that the foregoing Act, Senate File 2137, was published in the Winterset Madisonian, Winterset, Iowa on April 26, 1978, and in the Cherokee Daily Times, Cherokee, Iowa on April 27, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1159

DRAINAGE OR LEVEE DISTRICTS

H. F. 28

AN ACT to legalize and validate leases, sales and conveyances of property by drainage or levee districts which occurred on or after July 4, 1963 but prior to July 1, 1970.

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

Section 1. Section four hundred fifty-five point one hundred seventy-one (455.171), Code 1977, is amended to read as follows:

455.171 TAX DEED--SALE OR LEASE. If no redemption shall be made the board of supervisors or trustees, as the case may be, shall receive the tax deed as trustees for the district. They shall credit the district with all income from said property. They may lease or sell and convey said property as trustees for such district and shall deposit all money received therefrom to the credit of such district. The board of trustees may also lease or sell and convey such other property of the district, both real and personal, as is no longer needed for the purposes for which the district was established, and any such leases, sales and conveyances prior to ~~July 4, 1963~~ July 1, 1970, are hereby legalized and declared to be valid and binding.

Sec. 2. This Act shall not be construed to affect any litigation involving the lease, sale or conveyance of property by the board of supervisors or board of trustees, as the case may be, of a drainage or levee district, which litigation is pending on the effective date of this Act.

Approved June 5, 1978

CHAPTER 1160
NATURAL RESOURCES COUNCIL

H. F. 2212

AN ACT relating to the authority of the Iowa natural resources council and providing a penalty.

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

Section 1. Section four hundred fifty-five A point twenty (455A.20), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section four (4), is amended to read as follows:

If the water commissioner at the first hearing or the council at the hearing on appeal shall determine after due investigation that such diversion, storage or withdrawal will not be detrimental to the public interests, including drainage and levee districts, or to the interests of property owners with prior or superior rights who might be affected, the water commissioner following the first hearing, or the council following the hearing on appeal shall grant a permit for such diversion, storage or withdrawal. Judicial review of such action is available in accordance with the terms of the Iowa administrative procedure Act and section 455A.37. Permits may be granted for any period of time but not to exceed ten years except for the storage of water which may be granted for the life of the structure unless withdrawn for good cause. All existing storage permits are hereby extended for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. Permits may be extended by the water commissioner for a period of not more than ninety days during the pendency of an application for renewal. Any permit granted shall remain as an appurtenance of the land described therein through the date specified in such permit and any extension thereof or such earlier date as the permit or any extension thereof is revoked or canceled under the provisions of section 455A.28.

Sec. 2. Section four hundred fifty-five A point thirty-three (455A.33), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section six (6), is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. When approving a request to

straighten a stream, the director or council may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within some minimum distance from the stream sufficient in the judgment of the director or council to hold soil erosion to reasonable limits. The director shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land. A person who violates a prohibition against tillage shall be guilty of a simple misdemeanor. Each day upon which a violation occurs constitutes a separate violation.

NEW UNNUMBERED PARAGRAPH. The council shall by rule establish thresholds for dimensions and effects, and any structure, dam, obstruction, deposit, or excavation having smaller dimensions and effects than those established by the council shall be lawful and not subject to regulation under this section. The thresholds shall be such that only those structures, dams, obstructions, deposits, or excavations posing a significant threat to the well-being of the public and the environment shall be subject to regulation.

Sec. 3. Section four hundred fifty-five A point thirty-three (455A.33), unnumbered paragraphs three (3) and four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section six (6), are amended to read as follows:

In the event any person desires to erect or make, or to suffer or permit, a structure, dam, obstruction, deposit or excavation, other than a dam, constructed and operated under the authority of chapter 469 as amended, to be erected, made, used or maintained in or on any floodway or flood plains, such person shall file a verified written application with the ~~council~~ director, setting forth the material facts, ~~and the council after an investigation or hearing, shall enter an order, determining the fact and permitting or prohibiting the same, upon such terms and conditions as it may prescribe.~~ The director shall provide the council with copies of the application and an opportunity for the council to call up the application for its determination. The director, or the council, after an investigation or a public hearing if there is an objection to the proposed project shall determine the fact and approve or deny the application imposing such conditions and terms as the director or council may prescribe. A determination of the director may be appealed to the council

by any aggrieved party.

The council shall have the authority to maintain an action in equity to enjoin any such person from erecting or making or suffering or permitting to be made any structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The council is also authorized to abate as a public nuisance any structure, dam, obstruction, deposit, or excavation erected or made without a permit required by this chapter within one year of cessation of construction. The costs of the abatement shall be borne by the violator.

Sec. 4. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section eight (8), is amended to read as follows:

SEC. 8. APPLICATION FOR SPECIAL PERMITS. Application and payment of the fee for special permits shall be in accordance with the provisions of sections four hundred fifty-five A point nineteen (455A.19), subsection one (1), and four hundred fifty-five A point nineteen (455A.19), subsection five (5) of the Code, respectively. Upon receipt of the application and fee, the commissioner shall cause notice of the application to be published in a newspaper of general circulation in the county where the permit is sought. The special permit shall be issued by the commissioner two weeks from the date of publication, unless written objection to the application is filed with the commissioner before that date, in which case the hearing procedures of section four hundred fifty-five A point nineteen (455A.19) of the Code, shall be followed. ~~Special permits shall be issued for a period not to exceed one year.~~ Special permits issued after the effective date of this Act shall terminate on July 1, 1980. The termination date of all existing special permits is hereby extended to July 1, 1980.

Sec. 5. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-three (123), section nine (9), is amended to read as follows:

SEC. 9. Section four hundred fifty-five A point twenty (455A.20), Code 1977, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Until the council adopts a statewide water plan, all new water permits issued for irrigation purposes, except special permits, shall not exceed

one year and all renewals thereof shall also be limited to one year. The preceding limitation shall not apply to the renewal or extension of any valid water permit granted prior to the effective date of this Act. If it is determined, through monitoring of the permitted withdrawal, that it will endanger the present or future availability of groundwater said permits may be modified or canceled under the provisions of section four hundred fifty-five A point twenty-eight (455A.28) of the Code.

NEW UNNUMBERED PARAGRAPH. When permits are modified or canceled, priority for permits shall be given to applicants or permit holders who utilize such water for agriculture research. Nothing in this paragraph shall give priority to such applicants or permit holders in preference to those classes granted priority under section four hundred fifty-five A point twenty-one (455A.21) of the Code.

Sec. 6. This Act is effective January 1, 1979.

Approved June 12, 1978

CHAPTER 1161

WATERWORKS OPERATOR'S CERTIFICATE

H. F. 566

AN ACT relating to the issuance and expiration of waterworks or waste waterworks operators' certificates.

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

Section 1. Section four hundred fifty-five B point fifty-eight (455B.58), Code 1977, is amended to read as follows:

455B.58 DURATION. Certificates shall continue in effect ~~for one year~~ from the date of issuance until the following June thirtieth unless sooner revoked by the executive director, but such certificates shall remain the property of the department and the certificate shall so state. The fee for issuance of certificates as determined under section four hundred fifty-five B point sixty-one (455B.61) of the Code shall be prorated on a quarterly basis for any original certificate issued for a period of less than twelve months. A person who fails to renew ~~his a~~ certificate by ~~the expiration date~~ June thirtieth following its issuance shall be allowed to do so ~~within thirty days following its expiration~~ by July

thirty-first, but the board executive director may assess a reasonable penalty as established by rule of the commission.

Approved June 12, 1978

CHAPTER 1162

BEVERAGE CONTAINER DEPOSIT

H. F. 187

AN ACT relating to the control of litter, by regulating the sale and use of certain beverage containers; striking a provision relating to the responsibility for discarding litter from a motor vehicle; and providing a penalty for violations.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act unless the context otherwise requires:

1. "Beverage" means alcoholic liquor as defined in section one hundred twenty-three point three (123.3), subsection eight (8) of the Code, beer as defined in section one hundred twenty-three point three (123.3), subsection nine (9) of the Code, mineral water, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

2. "Beverage container" means any sealed glass, plastic, or metal bottle, can, jar or carton containing a beverage.

3. "Consumer" means any person who purchases a beverage in a beverage container for use or consumption.

4. "Dealer" means any person who engages in the sale of beverages in beverage containers to a consumer.

5. "Distributor" means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales.

6. "Manufacturer" means any person who bottles, cans, or otherwise fills beverage containers for sale to distributors or dealers.

7. "Director" means the executive director of the department of environmental quality.

8. "Department" means the department of environmental quality.

9. "Commission" means the solid waste disposal commission of the department of environmental quality.

Sec. 2. NEW SECTION. REFUND VALUES.

1. Except purchases of alcoholic liquor as defined in

section one hundred twenty-three point three (123.3), subsection eight (8), of the Code by holders of class "A", "B" and "C" liquor control licenses, a refund value of not less than five cents shall be paid by the consumer on each beverage container sold in this state by a dealer for consumption off the premises. Upon return of the empty beverage container upon which a refund value has been paid to the dealer or person operating a redemption center and acceptance of the empty beverage container by the dealer or person operating a redemption center, the dealer or person operating a redemption center shall return the amount of the refund value to the consumer.

2. In addition to the refund value provided in subsection one (1) of this section, a dealer, or person operating a redemption center, who redeems empty beverage containers shall be reimbursed by the distributor required to accept the empty beverage containers an amount which is one cent per container. A dealer or person operating a redemption center may compact empty metal beverage containers with the approval of the distributor required to accept such containers.

The provisions of this subsection shall apply for two years from the effective date of this Act and thereafter the amount shall be one-half cent per container.

Sec. 3. NEW SECTION. PAYMENT OF REFUND VALUE. Except as provided in section four (4) of this Act:

1. A dealer shall not refuse to accept from a consumer any empty beverage container of the kind, size and brand sold by the dealer, or refuse to pay to the consumer the refund value of a beverage container as provided under section two (2) of this Act.

2. A distributor shall accept and pick up from a dealer served by the distributor or a redemption center for a dealer served by the distributor any empty beverage container of the kind, size and brand sold by the distributor, and shall pay to the dealer or person operating a redemption center the refund value of a beverage container and the reimbursement as provided under section two (2) of this Act. This subsection shall not apply to a distributor selling alcoholic liquor to the Iowa beer and liquor control department.

Sec. 4. NEW SECTION. REFUSAL TO ACCEPT CONTAINERS.

1. Except as provided in section five (5), subsection two (2), of this Act, a dealer, a person operating a redemption center, a distributor or a manufacturer may refuse to accept any empty beverage container which does not have stated on

it a refund value as provided under section two (2) of this Act.

2. A dealer may refuse to accept and to pay the refund value of any empty beverage container if the place of business of the dealer and the kind and brand of empty beverage containers are included in an order of the department approving a redemption center under section six (6) of this Act.

Sec. 5. NEW SECTION. REFUND VALUE STATED ON CONTAINER.

1. Each beverage container sold or offered for sale in this state by a dealer shall clearly indicate by embossing or by a stamp, label or other method securely affixed to the container, the refund value of the container. The department shall specify, by rule, the minimum size of the refund value indication on the beverage containers.

2. The provisions of subsection one (1) of this section shall not apply to refillable glass beverage containers having a brand name permanently marked on them which have a refund value of not less than five cents or a refillable beverage container which has a five cent deposit on it and which may be exempted by the director in accordance with rules adopted by the commission.

Sec. 6. NEW SECTION. REDEMPTION CENTERS.

1. To facilitate the return of empty beverage containers and to serve dealers of beverages, any person may establish a redemption center, subject to the approval of the department, at which consumers may return empty beverage containers and receive payment of the refund value of such beverage containers.

2. An application for approval of a redemption center shall be filed with the department. The application shall state the name and address of the person responsible for the establishment and operation of the redemption center, the kind and brand names of the beverage containers which will be accepted at the redemption center, and the names and addresses of the dealers to be served by the redemption center. The application shall contain such other information as the director may reasonably require.

3. The department shall approve a redemption center if it finds that the redemption center will provide a convenient service to consumers for the return of empty beverage containers. The order of the department approving a redemption center shall state the dealers to be served by the redemption center and the kind and brand names of empty beverage containers which the redemption center must accept. The order

may contain such other provisions to insure that the redemption center will provide a convenient service to the public as the director may determine.

4. The department may review the approval of any redemption center at any time. After written notice to the person responsible for the establishment and operation of the redemption center, and to the dealers served by the redemption center, the commission may, after hearing, withdraw approval of a redemption center if the commission finds there has not been compliance with the department's order approving the redemption center, or if the redemption center no longer provides a convenient service to the public.

5. All approved redemption centers shall meet applicable health standards.

Sec. 7. NEW SECTION. UNAPPROVED REDEMPTION CENTERS. Any person may establish a redemption center which has not been approved by the department, at which a consumer may return empty beverage containers and receive payment of the refund value of the beverage containers. The establishment of an unapproved redemption center shall not relieve any dealer from the responsibility of redeeming any empty beverage containers of the kind and brand sold by the dealer.

Sec. 8. NEW SECTION. SNAP-TOP CANS PROHIBITED. A person shall not sell or offer for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container.

Sec. 9. NEW SECTION. RULES ADOPTED. The commission shall adopt, upon recommendation of the director, the rules necessary to carry out the provisions of this Act, subject to the provisions of chapter seventeen A (17A) of the Code.

Sec. 10. NEW SECTION. APPEAL. Any person aggrieved by an order of the department relating to the approval or withdrawal of approval for a redemption center may seek judicial review of such order as provided in chapter seventeen A (17A) of the Code.

Sec. 11. NEW SECTION. ANNUAL APPROPRIATION. For the fiscal year commencing July 1, 1979, and each fiscal year thereafter, there is appropriated from the beer and liquor control fund to the Iowa department of substance abuse the sum of one hundred thousand (100,000) dollars, or so much thereof as may be available, which appropriation shall be made only from the difference between the funds collected from the deposit required on beverage containers containing alcoholic liquor and the funds dispersed in the payment of

the refund value on such beverage containers. The Iowa department of substance abuse shall use the appropriated funds only for the care, maintenance and treatment of alcoholics under chapter one hundred twenty-five (125) of the Code.

Sec. 12. NEW SECTION. PENALTY. Any person violating the provisions of sections two (2), three (3), five (5), and eight (8) of this Act shall be guilty of a simple misdemeanor.

Sec. 13. Section four hundred fifty-five B point ninety-seven (455B.97), Code 1977, is amended by striking unnumbered paragraph two (2).

Sec. 14. EFFECTIVE DATES.

1. This Act shall be effective May 1, 1979 for beverage containers purchased from state liquor stores in this state.

2. This Act shall be effective July 1, 1979 for all beverage containers sold in this state except as provided in subsection one (1) of this section.

Approved May 12, 1978

CHAPTER 1163

TELEPHONE DIRECTORY ASSISTANCE

H. F. 232

AN ACT prohibiting the Iowa commerce commission from approving certain charges by telephone companies for telephone directory assistance.

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

Section 1. Section four hundred seventy-six point six (476.6), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

No public utility subject to rate regulation shall make effective any new or changed rate, charge, schedule or regulation except by filing the same with the commission at least thirty days prior to the effective date thereof. The commission, for good cause shown, may allow changes in rates, charges, schedules or regulations to become effective on less than thirty days' notice. The commission shall not approve a charge nor shall a public utility make a charge for telephone directory assistance.

Approved June 29, 1978

CHAPTER 1164

SOIL CONSERVATION AGENTS

H. F. 2331

AN ACT relating to authority of soil conservation district commissioners and their authorized agents or employees to enter upon public or private property.

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

Section 1. Section four hundred sixty-seven A point fifty-one (467A.51), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

467A.51 ENTERING ON LAND. The commissioners and their authorized agents or employees may enter upon any private or public property, except private dwellings, at any reasonable time to classify land by soil sampling or other appropriate methods or to determine whether soil erosion is occurring on the property in violation of the district's regulations.

1. If the owner or occupant of any property refuses admittance, or if prior to such refusal the commissioners demonstrate the need for a warrant, the commissioners may make an application under oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

2. In the application the commissioners shall state that entry on the premises is mandated by the laws of this state or that entry is needed to conduct soil sampling necessary to classify soil in the district as specified in section four hundred sixty-seven A point forty-four (467A.44), subsection one (1), of the Code or to determine whether soil erosion is occurring on the property in violation of the district's regulations. The application shall describe the area or premises, give the date of the last known investigation or sampling, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, ordinance or regulation pursuant to which the inspection is to be made.

3. The court may issue a search warrant, after examination of the applicant and any witnesses, if the court is satisfied that there is probable cause to believe the existence of the allegations in the application.

4. In soil sampling and making investigations pursuant to a warrant, the commissioners must execute the warrant in a reasonable manner within the time period specified in the warrant.

Sec. 2. This Act is effective January 1, 1979.

Approved May 8, 1978

CHAPTER 1165
GAS LAMPS AND PILOT LIGHTS

S. F. 182

AN ACT relating to the sale in this state of decorative gas lamps and gas appliances equipped with a pilot light and providing penalties.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Commission" means the Iowa state commerce commission.
2. "Gas appliance" means any new residential or commercial furnace that has an input capacity of not more than two hundred thousand British thermal units per hour, air conditioner, range or dryer which uses a gaseous fuel for operation and is automatically ignited.
3. "Intermittent ignition device" means an ignition device which is actuated only when the gas appliance is in operation.
4. "Pilot light" means a gas operated device that remains continually operated or lighted in order to ignite a gas appliance to begin normal operation.

Sec. 2. NEW SECTION. PILOT LIGHTS PROHIBITED. New gas appliances equipped with pilot lights shall not be sold or installed in this state commencing twenty-four months after the commission has certified an intermittent ignition device for the gas appliance as provided in section three (3) of this Act. The commission may determine that an intermittent ignition device is not feasible for a particular gas appliance or that the use of a pilot light on a particular gas appliance is necessary for public health and safety. The provisions of this section shall not apply to the sale and installation of a gas appliance in a residence that does not have a one hundred twenty volt power supply.

Sec. 3. NEW SECTION. SPECIFICATIONS DEVELOPED. The commission shall not later than July 1, 1979, develop the specifications for certification of intermittent ignition devices for at least three gas appliances. The commission shall appoint a task force composed of affected consumer and industry representatives to assist in developing the specifications. The specifications shall not significantly affect the price of a gas appliance compared to the price of similar electrical appliances. The specifications shall have as an objective the conservation of energy resources, which objectives shall be secondary only to provisions necessary for public safety, and shall consider initial costs to the consumer, including installation and maintenance costs. The commission shall certify all intermittent ignition devices which meet the specifications. In lieu of using specifications developed under this section specifically for this state, the commission may, if it deems such action to be in the public interest, adopt appropriate national specifications developed by a trade association or other recognized national group.

Sec. 4. NEW SECTION. NOTIFICATION OF MANUFACTURERS. Within ninety days after an intermittent ignition device has been certified by the commission, the commission shall notify all gas appliance manufacturers doing business in the state concerning the prohibition of pilot lights for the particular gas appliance for which the intermittent ignition device was certified. The commission shall inform the manufacturers of the actions necessary to comply with this Act.

Sec. 5. NEW SECTION. SEAL OF CERTIFICATION. The commission shall create a seal of certification and shall distribute the seals to every manufacturer, distributor and dealer who requests them. The seal shall be affixed to every new appliance sold at retail in the state for which an intermittent ignition device has been certified. In lieu of using a seal developed under this section the commission may, if it deems such action to be in the public interest, authorize use of the seal of an appropriate trade association or other recognized national group.

Sec. 6. NEW SECTION. PENALTY. Persons convicted of violating the provisions of section two (2) of this Act shall be guilty of a simple misdemeanor.

Sec. 7. NEW SECTION. DECORATIVE GAS LAMPS.

1. Commencing January 1, 1979 a person shall not sell

or offer for sale in this state a decorative gas lamp manufactured after December 31, 1978.

2. As used in this section "decorative gas lamp" means a device installed for the purpose of producing illumination by burning natural, mixed or liquid petroleum gas and utilizing either a mantle or an open flame, but does not include portable camp lanterns or gas lamps.

3. Persons convicted of violating this section shall be guilty of a simple misdemeanor.

Sec. 8. This Act is effective January 1, 1979.
Approved June 27, 1978

CHAPTER 1166

SKILLED NURSING CARE INSURANCE

H. F. 2273

AN ACT amending the laws applicable to accident and health insurance policies by restricting the sale of skilled nursing care coverage and requiring that the insured be given thirty days after delivery of the policy within which to return the policy and obtain a refund of the premium paid.

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

Section 1. Section five hundred seven B point four (507B.4), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. Selling, offering for sale, delivering or issuing for delivery, or renewing in this state a policy of accident and sickness insurance as defined in section five hundred fourteen A point one (514A.1) of the Code which contains any insurance or indemnity benefit, whether as primary coverage or as supplemental coverage, for loss incurred as a result of expenses for health care provided by a skilled nursing facility as defined in subsection three (3) of section one hundred thirty-five C point one (135C.1) of the Code. Provided, however, that nothing contained in this subsection shall be deemed to prohibit the renewal of any existing insurance or indemnity benefit contained in a policy which was issued for delivery or delivered in this state prior to the effective date of this Act if the benefit, by the terms of the policy, is guaranteed by the company to be renewable at the election of the policyholder.

NEW SUBSECTION. Selling, offering for sale, delivering

or issuing for delivery, or renewing in this state a policy of accident and sickness insurance as defined in section five hundred fourteen A point one (514A.1) of the Code which contains any insurance or indemnity benefit, whether as primary coverage or as supplemental coverage, for loss incurred as a result of expenses for skilled nursing services rendered at an intermediate care facility as defined in subsection two (2) of section one hundred thirty-five C point one (135C.1) of the Code, except when included in a policy which:

a. Provides an insurance or indemnity benefit which is determined by the total amount of the expenses incurred by the insured for care provided at the intermediate care facility; and

b. Provides for payment of the insurance or indemnity benefit irrespective of the nature of the care received and irrespective of the person administering the care. Nothing in this paragraph, however, shall be deemed to prohibit an insurer from excluding from coverage under an intermediate care facility policy any expenses incurred for the delivery of goods or services which are not reasonably necessary in rendering health care at an intermediate care facility, or any portion of expenses for reasonably necessary goods or services which under the particular circumstances is excessive when compared with charges for the same or similar goods or services provided at other intermediate care facilities in this state.

Provided, however, that nothing contained in this subsection shall be deemed to prohibit the renewal of any existing insurance or indemnity benefit contained in a policy which was issued for delivery or delivered in this state prior to the effective date of this Act if the benefit, by the terms of the policy, is guaranteed by the company to be renewable at the election of the policyholder.

Sec. 2. Section five hundred fourteen A point three (514A.3), subsection one (1), Code 1977, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. A provision as follows:

RIGHT TO RETURN POLICY. The insured has the right, within ten days after receipt of this policy, to return it to the company at its home office or branch office or to the agent through whom it was purchased, and if so returned the premium paid will be refunded and the policy will be void from the beginning and the parties shall be in the same position as if a policy had not been issued.

(In addition to incorporating the foregoing provision into the policy, the insurer shall deliver to the insured at the time of delivery of the policy a duplicate statement of the foregoing provision which shall be contained in conspicuous print on a separate and otherwise blank sheet of paper.)

Sec. 3. The provisions of this Act shall apply to any insurance policy which is delivered or issued for delivery or renewed in this state on or after the effective date of this Act.

Approved June 13, 1978

CHAPTER 1167
INSURANCE PLANS FOR PUBLIC EMPLOYEES

H. F. 2330

AN ACT redefining the term "governing body" as used in chapter five hundred nine A (509A) of the Code, relating to insurance plans for public employees.

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

Section 1. Section five hundred nine A point eleven (509A.11), subsection one (1), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Extraordinary Session, chapter one (1), section thirty-seven (37), is amended to read as follows:

1. The words "governing body" means the executive council of the state ~~for-all-state-employees-and-for-purposes-of-this-chapter-includes-employees-of-the-state-board-of-regents-for-purposes-of-health-and-life-insurance-only~~, the board of supervisors of counties, the school boards of school districts, and the superintendent or other person in charge of an institution supported in whole or in part by public funds.

Approved June 23, 1978

CHAPTER 1168
INSURANCE INSPECTORS LIABILITY

H. F. 570

AN ACT relating to inspections by insurance companies of any place of employment.

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

Section 1. Chapter five hundred seventeen (517), Code 1977, is amended by adding the following new section:

NEW SECTION. No inspection of any place of employment made by insurance company inspectors shall be the basis for the imposition of civil liability upon the inspector or upon the insurance company employing the inspector; but this provision refers only to liability arising out of the making of an inspection and shall not be construed to deny or limit the liability of any employer to his employees or the liability of any insurance carrier on its insurance policy.

Sec. 2. This Act is effective January 1, 1979.

Approved May 5, 1978

CHAPTER 1169
CREDIT UNIONS

S. F. 137

AN ACT relating to the operation and regulation of credit unions, and providing penalties.

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

DIVISION I

Section 1. Chapter five hundred thirty-three (533), Code 1977, is amended by adding sections two (2) through seventeen (17) of this Act.

Sec. 2. NEW SECTION. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Credit union" means a cooperative, nonprofit association, incorporated in accordance with the provisions of this chapter. A credit union is also a supervised financial organization as defined and used in the Iowa consumer credit code.

2. "Board" means the credit union review board, created

in section four (4) of this Act.

3. "Administrator" means the administrator appointed by the governor to direct and regulate credit unions pursuant to this chapter.

4. "Account insurance plan" means a plan providing account and share insurance which is of a type authorized under section fifteen (15) of this Act.

Sec. 3. NEW SECTION. DEPARTMENT CREATED. A credit union department of state government is created which shall consist of an administrator, a seven-member board and additional officers and employees as required.

Sec. 4. NEW SECTION. CREDIT UNION REVIEW BOARD.

1. A credit union review board is created. The board shall consist of seven members, each of whom shall have been a member in good standing for at least the previous five years of an Iowa state chartered credit union or a credit union chartered under the Federal Credit Union Act. Two of the members shall not be credit union directors or employees. Each member shall serve for a term of three years except that the terms of the members first appointed after the effective date of this Act shall expire, as designated by the governor at the time of appointment as follows:

- a. Two members on June 30, 1980.
- b. Two members on June 30, 1981.
- c. Three members expiring on June 30, 1982.

2. The members of the board shall be appointed by the governor with approval of the senate. The governor may appoint the members of the board from a list of nominees submitted to the governor by the credit unions located in the state of Iowa.

3. The board shall meet at least four times each year and shall hold special meetings at the call of the chairperson. Four members constitute a quorum.

4. Each member of the board shall receive actual and necessary expenses incurred in the discharge of official duties.

5. A member of the credit union review board shall not take part in any action or participate in any decision when the matter under consideration specifically relates to a credit union of which the board member is a member.

Sec. 5. NEW SECTION. POWERS AND DUTIES.

1. The board may adopt, amend, and repeal rules pursuant to chapter seventeen A (17A) of the Code or take other

action as it deems necessary or suitable, to effect the provisions of this Act.

*** 2. The board shall set the salary and prescribe the duties of the administrator who shall serve at the pleasure of the governor.***

Sec. 6. NEW SECTION. ADMINISTRATOR.

1. The administrator shall be appointed by the governor, subject to approval by the senate, and must possess a minimum of five years credit union experience.

2. The administrator may employ special assistants, examiners, and other employees as are necessary to carry out the provisions of this Act. The administrator shall, subject to approval by the board, establish salaries for the persons employed.

3. The administrator may make further rules as necessary, subject to the prior approval of the rules by the board.

Sec. 7. NEW SECTION. DEPUTY ADMINISTRATOR.

1. The administrator shall appoint a deputy administrator who shall assist the administrator in the performance of his or her office and who shall perform the duties of the administrator as directed by him or her during the absence or inability of the administrator.

2. The deputy administrator shall serve at the pleasure of the administrator. If the office of the administrator becomes vacant, the deputy administrator shall have all powers and duties of the administrator until a new administrator is appointed by the governor in accordance with the provisions of this chapter.

3. The deputy administrator shall receive a salary to be fixed by the board.

Sec. 8. NEW SECTION. EXPENSES. The administrator, deputy administrator, assistants, examiners and other employees of the credit union department are entitled to receive reimbursement for expenses incurred in the performance of their duties subject to approval by the board. The administrator, and when specifically authorized by the administrator, the deputy administrator, assistants, examiners and other employees of the credit union department, are entitled to receive reimbursement for expenses incurred while attending conventions, meetings, conferences, schools or seminars relating to the performance of their duties.

Sec. 9. NEW SECTION. INSURANCE AND SURETY BOND. The administrator shall acquire good and sufficient bond in a company authorized to do business in this state to insure

***Item veto

the faithful performance of the deputy administrator, assistants, examiners and all other employees of the credit union department and to insure against any liability which may accrue in case of the loss of property of a credit union, or of a member of a credit union or of any other person, in the course of an examination, investigation, or other function required or allowed by the laws of this state. The administrator shall be bonded in accordance with the provisions of chapter sixty-four (64) of the Code, provided that such bond shall be in the amount of one hundred thousand dollars.

Sec. 10. NEW SECTION. SUBPOENA--CONTEMPT.

1. The administrator, the deputy administrator, and upon the approval of the administrator, any assistant or examiner shall have the power to subpoena witnesses, to compel their attendance, to administer oaths, to examine any person under oath and to require the production of relevant books or papers. The examination may be conducted on any subject relating to the duties imposed upon, or powers vested in, the administrator under the provisions of this chapter.

2. When a person subpoenaed pursuant to subsection one (1) of this section neglects or refuses to obey the terms of the subpoena, or to produce books or papers or to give testimony, as required, the administrator may apply to the district court of Polk county for the enforcement of the subpoena or for the issuance of an order compelling compliance as the court directs.

3. The refusal without reasonable cause of a person to obey an order of the district court, issued pursuant to subsection two (2) of this section, shall be considered contempt of court.

Sec. 11. NEW SECTION. RECORDS OF CREDIT UNION DEPARTMENT.

1. Records of the credit union department are public records subject to the provisions of chapter sixty-eight A (68A) of the Code, except that papers, documents, reports, reports of examinations and other writings relating specifically to the supervision and regulation of a specific credit union or of other persons by the administrator pursuant to the laws of this state are not public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

2. The credit union review board or the administrator may notify the Iowa credit union league of the name of any

credit union which the board or administrator has reasonable cause to believe may have violated any of the provisions of this chapter or may be in danger of becoming insolvent or which has been the subject of a report of examination which the board or administrator deems unsatisfactory in any respect, and thereafter the administrator may, with the written consent of the credit union, give information secured from or about that credit union to the Iowa credit union league.

3. The administrator, deputy administrator, assistants or examiners shall not be subpoenaed in any cause or proceeding to give testimony concerning information relating to the supervision and regulation of a specific credit union or persons by the administrator pursuant to the laws of this state, nor shall the records of the credit union department which relate to the supervision and regulation of a specific credit union or persons be offered in evidence in a court or subject to subpoena by a party except where relevant:

a. In actions or proceedings brought by the administrator.

b. In matters in which an interested and proper party seeks review of a decision of the administrator.

c. In actions or proceedings which arise out of the criminal provisions of the laws of this state or of the United States.

d. In actions brought as shareholder derivative suits against a credit union.

e. In actions brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation or misuse of credit union funds.

Sec. 12. NEW SECTION. ANNUAL REPORT OF ADMINISTRATOR.

1. The administrator shall make a report in writing annually to the governor in the manner and within the time required by chapter seventeen (17) of the Code. A copy of the report shall be furnished by the administrator to each credit union and to the Iowa credit union league and its affiliates.

2. In addition to the matters required by chapter seventeen (17) of the Code, the annual report of the administrator shall contain:

a. A summary of applications approved or denied by the administrator pursuant to this chapter since the last previous report.

b. A summary of the assets, liabilities and capital structures of all credit unions, and a summary of the volume of consumer installment credit outstanding per credit union, as of June thirtieth of the year for which the report is made.

c. A statement of the receipts and disbursements of funds of the administrator during the calendar year ending on the preceding December thirty-first and of the funds on hand on that December thirty-first, including an estimate of the disbursements of department funds for consumer credit protection during the year for which the report is made.

d. Other information the administrator deems appropriate and advisable to fairly disclose the discharge of the duties imposed upon him or her by this chapter.

e. Information which the administrator of the Iowa consumer credit code may require to be included.

Sec. 13. NEW SECTION. EXAMINATION AND SUPERVISION FEES--PENALTIES.

1. Each credit union shall pay to the administrator an annual filing fee which shall be submitted with the annual report. The fee shall be based upon the actual operating costs of the department, exclusive of examination expenses, and shall be established and promulgated as a rule by the administrator. The administrator shall assess against a credit union the actual and necessary expenses of the agency incidental to any examination of that credit union made pursuant to the provisions of this Act or to an order of the administrator.

2. Failure of a credit union to pay an annual filing fee or examination fee shall result in a penalty of five dollars per day, or for any part of a day, during which the credit union is delinquent, and may be the grounds for revocation of the charter of the credit union which failed to make payment.

3. All expenses required in the discharge of the duties and responsibilities imposed upon the administrator and the board by the laws of this state shall be paid from funds appropriated from the general fund of the state. The administrator shall pay all fees and other money received by the administrator to the treasurer of state within the same time required by section twelve point ten (12.10) of the Code. The treasurer of state shall deposit such funds in the general fund of the state. Funds appropriated to the credit union department shall be subject at all times to the warrant of the state comptroller, drawn upon written

requisition of the administrator or a designated representative, for the payment of all salaries and other expenses necessary to carry out the duties of the credit union department.

4. The administrator, deputy or employees of the department shall not be members of nor have any business dealings with a credit union. Credit unions shall not accept moneys for deposit and shall not have any business transaction with the administrator, deputy or an employee of the credit union department. If a person willfully receives or accepts a deposit or undertakes to establish a business dealing contrary to this section, upon conviction that person shall be guilty of a serious misdemeanor, and shall be permanently disqualified from acting as an officer, director or employee of a state chartered credit union and permanently disqualified from acting as administrator, deputy or employee of the state credit union department.

Sec. 14. NEW SECTION. FALSE STATEMENTS--PENALTIES.

1. A director, officer or employee of a credit union shall not intentionally publish, disseminate or distribute any advertising or notice containing any false, misleading or deceptive statements concerning rates, terms or conditions on which loans are made, or deposits or share installments are received, or concerning any charge which the credit union is authorized to impose pursuant to this chapter, or concerning the financial condition of the credit union. Any director, officer, or employee of a credit union who violates the provisions of this section commits fraudulent practice.

2. Any person who maliciously or with intent to deceive makes, publishes, utters, repeats, or circulates any false statement concerning any credit union which imputes or tends to impute insolvency, unsound financial condition or financial embarrassment, or which may tend to cause or provoke or aid in causing or provoking a general withdrawal of deposits from such credit union, or which may otherwise injure or tend to injure the business or good will of such credit union, shall be guilty of a simple misdemeanor.

Sec. 15. NEW SECTION. ACCOUNT INSURANCE. Every credit union organized under this chapter, as a condition of maintaining its privilege of organization after December 31, 1980, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. Such insurance shall be obtained from the national credit union administrator or from

some other share guarantor or insurance plan approved by the Iowa commissioner of insurance and the administrator of the credit union department. Every credit union not so insured as of the effective date of this Act shall submit an application for share and deposit insurance not later than July 1, 1979.

The administrator may furnish to any official of an insurance plan by which the accounts of a credit union are insured, any information relating to examinations and reports of the status of that credit union for the purpose of availability of insurance to that credit union.

Sec. 16. NEW SECTION. FALSE STATEMENT FOR CREDIT. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person or any other person in which such person is interested or for whom such person is acting with the intent that such statement shall be relied upon by a credit union for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a fraudulent practice.

Sec. 17. NEW SECTION. CENTRAL CREDIT UNIONS. Credit unions known as "central credit unions" may exist for the purpose of serving members of dissolved credit unions, directors, officers and employees of credit unions, employee groups as defined in subsection thirteen (13) of section five hundred thirty-three point four (533.4) of the Code, and such other persons as the administrator shall approve.

Sec. 18. Section five hundred twenty-seven point two (527.2), subsection six (6), Code 1977, is amended to read as follows:

6. "Administrator" means and includes ~~both~~ the superintendent of banking and, the supervisor of savings and loan associations within the office of the auditor of state, and the administrator of the credit union department. However, the powers of administration and enforcement of this chapter shall be exercised only as provided in section ~~twelve-(42)~~ of this chapter five hundred twenty-seven point three (527.3) of the Code.

Sec. 19. Section five hundred twenty-seven point three (527.3), subsection one (1), Code 1977, is amended to read as follows:

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

Sec. 20. Section five hundred thirty-three point one (533.1), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

ADMINISTRATION. The administrator shall have the supervisory and regulatory authority of all state chartered credit unions and shall be charged with the administration and execution of the laws of this state relating to credit unions. Subject to the approval of the credit union review board, the administrator shall have power to adopt such rules as in his or her opinion are necessary to properly and effectively safeguard the interests of depositors and shareholders of credit unions, and otherwise to carry out and enforce the provisions of this chapter.

Sec. 21. Section five hundred thirty-three point one (533.1), unnumbered paragraphs three (3), four (4) and five (5), Code 1977, are amended to read as follows:

ORGANIZATION. Any seven residents of the state of Iowa may apply to the ~~superintendent of banking~~ administrator for permission to organize a credit union.

A credit union is organized in the following manner:

1. The applicants shall execute in duplicate articles of incorporation by the terms of which they agree to be bound. The articles shall state:

- a. The name and location of the proposed credit union.
- b. The names and addresses of the subscribers to the articles and the number of shares subscribed by each.
- c. The par value of the shares of the credit union which shall not exceed twenty-five dollars each and shall be established by the board of directors. A credit union may have more than one class of shares.

2. Said applicants shall prepare and adopt bylaws for

the general government of the credit union consistent with the provisions of this chapter, and execute the same in duplicate.

3. The articles and the bylaws, both executed in duplicate, shall be forwarded with a fee of ten dollars to the superintendent-of-banking administrator.

4. The superintendent administrator shall, within thirty days of the receipt of said articles and bylaws, determine whether they conform with the provisions of this chapter, and whether or not the organization of the credit union in question would benefit ~~the~~ its members ~~of-it~~ and be consistent with the purposes of this chapter.

5. The superintendent administrator shall thereupon notify the applicants of his or her decision. If ~~it~~ the decision is favorable ~~he~~ the administrator shall issue a certificate of approval, which shall be attached to the duplicate articles of incorporation and the administrator shall return the same, together with the duplicate bylaws to the applicants.

6. The applicants shall thereupon file ~~the-said this~~ duplicate of the articles of incorporation, ~~with~~ and the attached certificate of approval ~~attached-thereto,~~ with the county recorder of the county within which the credit union is to ~~de~~ have its principal place of business, ~~where.~~ The county recorder shall record and index the same and return it, with his or her certificate of record attached ~~thereto,~~ to the ~~said-superintendent-of-banking~~ administrator for permanent record.

7. The applicants shall thereupon become and be a credit union, incorporated in accordance with the provisions of this chapter.

In order to simplify the organization of credit unions, the ~~superintendent-of-banking,~~ ~~upon-the-taking-effect-of-this~~ ~~chapter,~~ ~~or-as-seen-thereafter-as-sufficient-fees-shall-have~~ ~~accumulated-to-liquidate-the-cost-of-same,~~ administrator shall cause to be prepared an approved form of articles of incorporation and a form of bylaws, consistent with this chapter which may be used by credit union incorporators for their guidance, and on written application of any seven residents of the state, shall supply them without charge with blank articles of incorporation and a copy of ~~said~~ this form of suggested bylaws.

Sec. 22. Section five hundred thirty-three point two (533.2), Code 1977, is amended to read as follows:

533.2 AMENDMENTS. The articles of incorporation or the

bylaws may be amended by a favorable vote of a majority of the members present at any meeting, which number must constitute a quorum provided the proposed amendment was contained in the notice of the meeting. Any and all such amendments must be approved by the superintendent-of-banking administrator before they become effective.

Sec. 23. Section five hundred thirty-three point four (533.4), subsection five (5), paragraph e, subsection twelve (12), subsection thirteen (13) and subsection seventeen (17), Code 1977, are amended to read as follows:

e. Purchase of notes of liquidating credit unions with the approval of the superintendent-of-banking administrator.

12. Apply ~~to the administrator of the national credit union administration~~ for credit union share account and deposit account insurance which meets the requirements of this chapter under Title II of the federal Credit Union Act as amended by Public Law 94-468 and take all actions necessary to maintain an insured status ~~thereunder~~.

13. Upon the approval of the superintendent-of-banking administrator, serve an employee group having an insufficient number of members to form or conduct the affairs of a separate credit union. There shall be no requirement for the existence of a common bond relationship between the said small employee group and the credit union effecting such service.

17. Subject to the prior approval of the superintendent administrator, acquire and hold shares in a corporation engaged in providing and operating facilities through which a credit union and its members may engage, by means of either the direct transmission of electronic impulses to and from the credit union or the recording of electronic impulses or other indicia of a transaction for delayed transmission to the credit union, in transactions in which such credit union is otherwise permitted to engage pursuant to applicable law.

Sec. 24. Section five hundred thirty-three point four (533.4), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. Establish one or more offices other than its main office, subject to the approval and regulation of the administrator, if such offices shall be reasonably necessary to furnish service to its membership. A credit union office may furnish all credit union services ordinarily furnished to the membership at the principal place of business of the credit union which operates the office. All transactions of a credit union office shall be transmitted

daily to the principal place of business of the credit union which operates the office, and no current record keeping functions shall be maintained at a credit union office except to the extent the credit union which operates the office deems it desirable to keep at the office duplicates of the records kept at the principal place of business of the credit union. The central executive and official business functions of a credit union shall be exercised only at the principal place of business.

A credit union office shall not be opened without the prior written approval of the administrator. Upon application by a credit union in the form prescribed by the administrator, the administrator shall determine, after notice and hearing, if the establishment of the credit union office is reasonably necessary for service to, and is in the best interests of, the members of the credit union.

NEW SUBSECTION. Purchase insurance or make the purchase of insurance available for members.

NEW SUBSECTION. Notwithstanding the provisions of unnumbered paragraph one (1) of subsection four (4) of section five hundred thirty-three point sixteen (533.16) of the Code, a credit union may take a second mortgage on real property to secure a loan made by the credit union, subject to rules promulgated by the administrator.

Sec. 25. Section five hundred thirty-three point four (533.4), subsection sixteen (16), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

16. Sell, participate in, or discount the obligations of its members without recourse. Purchase the obligations of Iowa credit union members, provided the obligations meet the requirements of this chapter.

Sec. 26. Section five hundred thirty-three point five (533.5), Code 1977, is amended to read as follows:

533.5 MEMBERSHIP. Credit union membership shall consist of the incorporators and ~~such~~ other persons as who may be elected to membership and subscribe for at least one share, and who pay the installment thereon and the entrance fee, if any. Organizations, incorporated or otherwise, composed for the most part of the same general group as the credit union membership may be members. Credit union organization shall be limited to groups having of individuals who have a common bond of occupation or association, or to groups of

individuals who reside within a well-defined neighborhood, community, or rural district. However, membership also may be extended to persons related to a member within the common bond by the first or second degree of consanguinity or affinity, including foster children and adopted children, and to such relatives of a deceased member. If adopted as a policy by the board of directors of a credit union, members ~~who are no longer included in the common bond of association~~ cease to meet the qualifications of membership may retain their credit union membership and all membership privileges.

Sec. 27. Section five hundred thirty-three point six (533.6), Code 1977, is amended to read as follows:

533.6 REPORTS--EXAMINATIONS.

1. Credit unions organized under this chapter shall report annually on or before the first day of February to the ~~superintendent of banking annually on or before the first day of February~~ administrator on blanks supplied by ~~him~~ the administrator for that purpose. Additional reports may be required. If any report remains in arrears for more than five days, a fine of five dollars for each day such report remains in arrears may be levied against such the offending credit union in addition to the fine for failure to pay the annual fee. If such report is not returned within thirty days of the due date, the ~~superintendent of banking~~ administrator may, after written notice to the president of ~~such the~~ credit union ~~of his intention to de-se~~, suspend or revoke the certificate of approval, take possession of the business and property of such credit union, and order its dissolution.

2. The ~~superintendent of banking~~ administrator shall annually examine, or cause to be examined, each credit union annually. Each credit union and all of its officers and agents shall give to the representatives of ~~said superintendent~~ the administrator free access to all books, papers, securities, records and other sources of information under their control, ~~and for the purposes of such examination said representatives shall have the power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.~~ A report of such examination shall be forwarded to the ~~president~~ chairperson of each credit union within thirty days after the completion of the examination. Within thirty days of the receipt of ~~such this~~ report, a meeting of the directors shall be called to consider matters contained in the report and the action taken shall be set forth in the

minutes of the board. ~~The superintendent may furnish to the administrator or any other official of the national credit union administration any information or report relating to examinations and reports of the status of any state credit union insured by the national credit union administration.~~ The superintendent of banking administrator may accept, in lieu of the annual examination of a credit union, an audit report conducted by a certified public accounting firm selected from a list of firms previously approved by the superintendent of banking administrator. The cost of the audit shall be paid by the credit union.

3. The superintendent of banking administrator may require any credit union, whose records are inadequate or whose books have not been balanced as of the end of the month not less than thirty days previously or whose affairs are in an unfavorable condition, to submit to an additional examination each year.

~~4. Each credit union shall pay to the superintendent of banking a fee for making examinations, based on the actual cost of the operation of the credit union division of the department of banking and the proportionate share of administrative expenses in the operation of the department of banking, attributable to credit unions, to be determined by the superintendent of banking, in accordance with chapter 47A.~~

5 4. If it shall appear that any credit union is insolvent or that it has violated any of the provisions of this chapter, the superintendent of banking administrator may, after a hearing or giving after an opportunity for a hearing is given, order such that credit union to correct such the condition and. The administrator shall grant it the credit union not less than sixty days within which to comply and failure to with the order. Failure to do comply shall afford the said superintendent administrator grounds to revoke the certificate of approval and shall afford the administrator the authority to apply to the district court of the district in which such this credit union is located for the appointment of a receiver for the credit union. The district court shall appoint the superintendent administrator of the credit union department as receiver unless the superintendent administrator of the credit union department has tendered the appointment to the administrator of the national credit union administration plan by which the accounts of the credit union are insured.

~~The~~ Either administrator as receiver shall possess the rights, powers, and privileges granted by state law to a receiver of a state credit union. Neither ~~the-superintendent-nor-the~~ administrator shall be required to furnish bond as receiver of a state credit union.

5. When the administrator has reason to believe that an officer, director, or employee of a credit union has violated any law relating to a credit union or has continued an unsafe or unsound practice in conducting the business of a credit union after having been warned by the administrator to discontinue or correct such violation or unsafe or unsound practice, the administrator may cause notice to be served upon the officer, director, or employee to appear before the administrator to show cause why he or she should not be removed from office or employment. A copy of such notice shall be sent by restricted delivery mail to each director of the credit union affected. If, after granting the accused reasonable opportunity to be heard, the administrator finds that the accused has violated a law relating to a credit union or has continued an unsafe or unsound practice in conducting the business of a credit union after having been warned by the administrator, the administrator in his or her discretion may order that the accused be removed from office and from any position of employment with the credit union. A copy of the order shall be served upon the accused and upon the credit union affected, at which time the accused shall cease to be an officer, director, or employee of the credit union.

Sec. 28. Section five hundred thirty-three point eight (533.8), Code 1977, is amended to read as follows:

533.8 ELECTIONS. At the organization meeting there shall be elected a board of directors of not less than nine members to hold office for such terms as the bylaws provide and until successors are elected and qualify. At each annual meeting there shall be elected one member to fill each position vacated by reason of expiring terms or other causes. A record of the names and addresses of the directors, officers and committee persons shall be filed with the ~~superintendent-of~~ banking administrator within ten days following each election.

Sec. 29. Section five hundred thirty-three point sixteen (533.16), Code 1977, is amended to read as follows:

533.16 LOANS.

1. A credit union may loan to ~~members---loans-must-be~~ a member for a provident or productive purpose ~~and-are-made.~~ Loans shall be subject to the conditions contained in this

section and in the bylaws. A-borrower-may-repay-his-loan
A loan may be repaid by the borrower, in whole or in part, any day the office of the credit union is open for business. Every loan shall be pursuant to an application with supportive credit information. Any credit or financial information which is required shall be updated by the credit union or by the member not less frequently than every eighteen months for re-financed loans or for periodic advances made under an open-end credit plan.

2. A credit union shall not lend in the aggregate to any one member more than one hundred dollars or ten percent of its capital, whichever is greater.

3. A director of a credit union may borrow from that credit union under the provisions of this chapter, but the loan shall not be made on terms more favorable than those extended to other members. A director of a credit union may borrow from that credit union to the extent and in the amount of such director's holdings in the credit union in shares and deposits. A director desiring to borrow from the credit union an amount in excess of the director's holdings in shares and deposits shall first submit application for approval by the board of directors at a regular or special meeting. The director making application for the loan shall not be in attendance at the time the board of directors considers the application and shall not take part in the consideration. Prior to consideration of such loan, the director must have submitted to the board a detailed current financial statement. The aggregate amount of director loans shall not exceed twenty percent of the assets of the credit union.

4. Loans secured by a mortgage or deed of trust upon real property may be made only on unencumbered property located in Iowa and in bordering counties of adjacent states and every such loan shall comply with one of the following conditions:

4 a. If the terms of the instrument securing such loan call for payment at maturity the loan shall not be for a period in excess of five years and the amount loaned shall not exceed fifty percent of the appraised value of the property given as security.

2 b. If the terms of the instrument securing such loan call for installment payments which are sufficient to retire at least forty percent of the principal of the loan within ten years the amount loaned shall not exceed sixty percent of the appraised value of the property given as security and shall not be for a period in excess of ten years.

3 c. If the terms of the instrument securing such loan call for monthly installment payments, including principal and interest, at least equal to one percent of the principal of the loan, the amount loaned shall not exceed eighty percent of the appraised value of the property given as security.

~~The foregoing restrictions or limitations shall not prevent the renewal or extension of loans and shall not apply to loans which are secured under the provisions of the national housing Act, as amended, or to loans made to families of low or moderate income as a part of programs authorized in sections 220.1 to 220.36 and approved by the Iowa housing finance authority. The board of directors of a credit union possessing assets of at least five hundred thousand dollars may set maturity schedules for real property loans not to exceed twenty-five years. The value of the property given as security must be determined by an independent appraiser and the maximum loan must not exceed ninety percent of the appraised value. However, the maximum real property loan balances of this type in the credit union shall not exceed fifteen percent of the aggregate total of the member share and deposit accounts.~~

d. The board of directors of a credit union possessing assets of at least five hundred thousand dollars may set maturity schedules for real property loans not to exceed thirty years, if the terms of the instrument securing such loans require substantially equal payments of principal or of principal and interest at successive intervals of not more than one year. The value of the property given as security must be determined by an independent appraiser and the maximum loan must not exceed ninety percent of the appraised value. However, the maximum real property loan balances of this type in the credit union shall be established by rule by the administrator.

5. Loans which are not secured by real property shall be subject to the following conditions:

a. Loans to any one member which in the aggregate exceed the unsecured loan limit established by the board of directors of a credit union shall be secured by one or more cosigners or guarantors, or, by a first lien on collateral having a value which is approximately equal to the amount in excess of such unsecured loan limit. Every cosigner or guarantor shall furnish the credit union with evidence of financial responsibility.

b. Nothing contained in this subsection shall be deemed

to preclude a credit committee or loan officer from requiring security for any loan.

c. A credit union may make loans insured under the provisions of Title twenty (XX), United States Code, section one thousand seventy-one (1071) through section one thousand eighty-seven (1087) or similar state programs, loans insured by the federal housing administration under Title twelve (XII), United States Code, section one thousand seven hundred three (1703), and loans to families of low or moderate income as a part of programs authorized in sections two hundred twenty point one (220.1) to two hundred twenty point thirty-six (220.36) of the Code.

d. The restrictions and limitations contained in this subsection shall not apply to loans made to a member credit union by a corporate central credit union.

6. Nothing contained in this section shall prevent the renewal or extension of loans.

7. The administrator may impose a penalty on a credit union for each loan made in violation of this section. If a credit union, after notice in writing, and opportunity for hearing, fails to satisfactorily resolve the matter within sixty days from receipt of such notice, the administrator may impose a fine against such credit union in an amount not to exceed one hundred dollars per day per violation for each day the violation remains unresolved.

8. ~~No credit union shall loan to any one member more than one hundred dollars or ten percent of its total assets whichever is greater.~~ The provisions of the Iowa consumer credit code shall apply to consumer loans made by a credit union, and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan.

Sec. 30. Section five hundred thirty-three point seventeen (533.17), subsection one (1), paragraph b, and subsection three (3), Code 1977, are amended to read as follows:

b. Five percent of gross income until the legal reserve equals ten percent of the total of outstanding loans and risk assets.

Whenever the legal reserve falls below ten percent or seven and one-half percent of the total of outstanding loans and risk assets, as the case may be, the difference shall be replaced by regular contributions in order to maintain the seven and one-half percent or ten percent reserve. Any entrance fees, charges and transfer fees shall, after payment

of organization expenses, be added to the legal reserve. The legal reserve shall belong to the credit union and shall be used to meet losses except those resulting from an excess of expenses over income. The reserve shall not be distributed except on liquidation of the credit union or in accordance with a plan approved by the superintendent-of-banking administrator.

3. The superintendent-of-banking administrator may require a credit union to set aside additional amounts as a special reserve if an examination of its assets should disclose that its legal reserve is inadequate.

Sec. 31. Section five hundred thirty-three point twenty (533.20), Code 1977, is amended to read as follows:

533.20 VOLUNTARY DISSOLUTION. The process of voluntary dissolution shall be as follows:

1. At a special meeting called for ~~the~~ that purpose, ~~notice-of-which-purpose-must-be-contained-in-the-call,~~ a credit union may dissolve upon the affirmative vote of a majority of its members eligible to vote at the special meeting. Notice of the meeting's purpose shall be contained in the meeting's notice. Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of dissolution by signing a statement in the form approved by the superintendent-of-banking-and-the administrator. This vote shall have the same force and effect as if cast at the meeting.

2. The credit union shall cease to do business except for the purposes of liquidation immediately upon ~~the~~ giving of notice of the special meeting ~~of-the~~ called for the members to vote on dissolution ~~and-the.~~ The board of directors shall immediately notify the superintendent-of-banking administrator of the intention of the credit union to dissolve. The credit union shall not resume its regular business unless the dissolution fails to receive the required vote of the members or unless the members ~~shall~~ have revoked prior affirmative action to dissolve as provided for in subsection 4 of this section.

3. The board of directors shall have power to terminate and settle the affairs of a credit union in voluntary dissolution. The credit union shall continue in existence for the purpose of discharging its liabilities, collecting and distributing its assets, and doing all acts required in order to terminate its affairs. The credit union may sue

and be sued for the purpose of enforcing such liabilities and for the purpose of collecting its assets until its affairs are fully settled. During the course of dissolution proceedings, the credit union shall make such reports and shall be subject to such examinations as the ~~superintendent of-banking~~ administrator may require. If at any time, after the affirmative vote of a majority of the members of a credit union to dissolve the credit union, the ~~superintendent-of banking~~ administrator finds that the credit union is not making reasonable progress toward terminating its affairs or finds that the credit union is insolvent, he the administrator may apply to the district court for a appointment of a receiver to-be-appointed to terminate the affairs of the credit union.

4. ~~A-credit-union-may,-at~~ At any time prior to any distribution of its assets, a credit union may revoke the voluntary dissolution proceedings ~~upon~~ by the affirmative vote of a majority of its members eligible to vote. This vote, if taken, shall be at a special meeting called for that purpose in the manner prescribed by the bylaws. The board of directors shall immediately notify the ~~superintendent-of banking~~ administrator of any such action to revoke voluntary dissolution proceedings.

5. Upon such proof as is satisfactory to the ~~superintendent of-banking~~ administrator that all assets have been liquidated from which there is a reasonable expectance of realization, that the liabilities of the credit union have been discharged and distribution made to its members, and that the liquidation has been completed, the ~~superintendent-of-banking~~ administrator shall issue a certificate of dissolution, which certificate shall be filed and recorded in the county in which the credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded. Upon the issuance of a certificate of dissolution, the existence of the credit union shall cease.

6. The board of directors may appoint by resolution any responsible person as defined in section four point one (4.1) of the Code, whose appointment has been approved by the administrator, to exercise its powers to terminate and settle the affairs of the credit union pursuant to this section. The administrator is authorized to promulgate rules pursuant to chapter seventeen A (17A) of the Code establishing the qualifications which must be met by such appointees, including but not limited to filing a surety bond with the administrator.

Sec. 32. Section five hundred thirty-three point twenty-one (533.21), subsections one (1) through three (3), Code 1977, are amended to read as follows:

1. In all situations in which the superintendent administrator has been appointed as receiver as provided in ~~section-533-6-and-section-533-20-he~~ this chapter, the administrator shall make a diligent effort to collect and realize on the assets of the credit union, and shall make distribution of the proceeds from time to time to those entitled thereto in the order provided for by law. The ~~superintendent administrator~~ may execute as receiver, or after the receivership has terminated, assignments, releases, and satisfactions to effectuate sales and transfers ~~as-receiver or-after-the-receivership-has-terminated.~~ Upon the order of the court in which the receivership is pending, the ~~superintendent administrator~~ may sell or compound all bad or doubtful debts,-and,-on-a-like-order,-. Upon the order of the court in which the receivership is pending, the administrator may sell all the real and personal property of the credit union, on such terms as the court shall direct.

2. All expenses of the receivership and dissolution shall be ~~fixed~~ determined by the superintendent administrator, subject to the approval of the district court, and shall be paid out of the assets of the credit union.

3. At the termination of the receivership, the superintendent administrator shall file ~~his~~ a final report containing which shall contain the details of his or her actions ~~therein,-together-with~~ and such additional facts as the court may require.

Sec. 33. Section five hundred thirty-three point twenty-two (533.22), subsection three (3), Code 1977, is amended to read as follows:

3. The ~~superintendent-of-banking~~ administrator shall assume custody of the records of a credit union dissolved pursuant to this chapter and shall retain ~~them~~ these records in accordance with the provisions of section 533.26. The superintendent administrator may cause film, photographic, photostatic, or other copies of such these records to be made and the administrator shall retain such these copies in lieu of the original records.

Sec. 34. Section five hundred thirty-three point twenty-three (533.23), Code 1977, is amended to read as follows:

533.23 CHANGE IN PLACE OF BUSINESS. A credit union may change its place of business on written notice to the

~~superintendent-of-banking administrator.~~

Sec. 35. Section five hundred thirty-three point twenty-seven (533.27), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

For the purpose of assisting credit unions in the retention of only necessary records and files, or for the destruction of those which are obsolete or unnecessary, credit unions are authorized to destroy such records and files or classes thereof within the period of limitation of actions upon the joint recommendation of the ~~superintendent-of-banking administrator~~ and a the credit union review board ~~relating to records consisting of the directors of the Iowa credit union league.~~

Sec. 36. Section five hundred thirty-three point thirty (533.30), subsections one (1), three (3), and four (4), Code 1977, are amended to read as follows:

1. A credit union may~~, with the approval of the superintendent-of-banking,~~ merge with another credit union under the existing organization of the other credit union if the merger receives approval of the administrator and if the merger is pursuant to a plan agreed upon by the majority of the board of directors of each credit union joining in the merger and which plan is approved by the affirmative vote of a majority of the members of the merging credit unions.

3. The certificate and a copy of the agreed plan of merger agreed-upon shall be forwarded to the ~~superintendent-of-banking administrator~~, certified by him or her, and returned to both credit unions within thirty days of the date of receipt by the administrator.

4. Upon return of the certificates from the ~~superintendent-of-banking administrator~~, all property, property rights, and members' interest of the merged credit union shall vest in the surviving credit union without ~~deed, endorsement~~ the legal need for deeds, endorsements or other ~~instrument instruments~~ of transfer, and all debts, obligations and liabilities of the merged credit union ~~are~~ shall be assumed by the surviving credit union under whose charter the merger was effected. The rights and privileges of the members of the merged credit union shall remain intact. Credit union membership in the surviving credit union shall be available to persons within the field of membership of the merged credit union.

Sec. 37. Section five hundred thirty-three point thirty-three (533.33), Code 1977, is amended to read as follows:

533.33 ~~ADMINISTRATION-OF-NATIONAL-UNION~~ ADMINISTRATOR
OF ACCOUNT INSURANCE PLAN AS RECEIVER.

1. The superintendent administrator of the credit union department may tender to the administrator of ~~the-national credit-union-administration~~ an account insurance plan approved under this chapter the appointment as receiver for an insured credit union. If the insurance plan administrator accepts the appointment as receiver, the rights of the members and other creditors of the insured credit union shall be determined in accordance with the laws of this state.

2. The administrator of ~~the-national-credit-union administration~~ an account insurance plan as receiver shall possess the powers, rights, and privileges given to the superintendent administrator of the credit union department as provided by law.

3. If the administrator of ~~the-national-credit-union administration~~ an account insurance plan pays or makes available for payment the insured liabilities of a state credit union, he or she shall be subrogated by operation of law to all rights of the members against the insured credit union in the same manner and to the same extent as ~~the subrogation of-the-administrator-of-the-national-credit-union administration~~ is provided for in applicable laws ~~of-the United-States~~ in the case of a closed federal credit union or closed state credit union.

Sec. 38. Section five hundred thirty-three point thirty-four (533.34), Code 1977, is amended to read as follows:

533.34 CONVERSION OF STATE CREDIT UNION INTO FEDERAL CREDIT UNION.

1. A state credit union may convert into a federal credit union upon with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of its the credit union's members eligible to vote. This vote, if taken, shall be at a special meeting called for that purpose and shall be in the manner prescribed by the bylaws and-with-the-approval-of-the-administrator-of-the-national-credit-union-administration. Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of conversion by signing a statement in a form satisfactory to the superintendent-of-banking-and-the administrator of the credit union department. This vote shall have the same force and effect as if cast at the meeting.

2. The board of directors of the state credit union shall notify the ~~superintendent-of-banking~~ administrator of the credit union department of any proposed conversion and of any abandonment or disapproval of the conversion by the members or by the administrator of the national credit union administration. The board of directors of the state credit union shall file with the ~~superintendent~~ administrator of the credit union department appropriate evidence of approval of the conversion by the administrator of the national credit union administration and shall notify the ~~superintendent~~ administrator of the credit union department of the date on which the conversion is to be effective.

3. Upon receipt of satisfactory proof that the state credit union has complied with all applicable laws of this state and of the United States, the ~~superintendent~~ administrator of the credit union department shall issue a certificate of conversion which shall be filed and recorded in the county in which the state credit union has its principal place of business and in the county in which its original articles of incorporation were filed and recorded.

Sec. 39. Section five hundred thirty-three point thirty-five (533.35), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. A federal credit union may convert into a state credit union ~~upon~~ by compliance with the laws of the United States and upon the approval by of the ~~superintendent-of-banking~~ administrator of the credit union department. Application for approval of the conversion to a state credit union shall be submitted to the ~~superintendent~~ administrator of the credit union department in the form prescribed by the ~~superintendent~~ administrator, together with the articles of incorporation and bylaws as required by section 533.1. The ~~superintendent of-banking~~ administrator of the credit union department may cause an examination to be made of any converting federal credit union ~~and-the.~~ The credit union shall pay to the ~~superintendent~~ administrator the same examination fee as paid for examinations of state credit unions.

2. If the ~~superintendent-shall~~ administrator of the credit union department should approve the application of a federal credit union for conversion to a state credit union, he or she shall cause the articles of incorporation of the resulting state credit union to be filed and recorded in the county in which the credit union has its principal place of business and he or she shall issue a certificate of authority to do

business under the laws of this state to the resulting state credit union ~~to-de-business-under-the-laws-of-this-state~~.

The credit union shall then become a state credit union subject to the laws of this state. The superintendent administrator of the credit union department shall furnish a copy of the certificate to the administrator of the national credit union administration.

Sec. 40. Section five hundred thirty-three point thirty-six (533.36), Code 1977, is amended by striking the section.

Sec. 41. Section five hundred thirty-three point thirty-seven (533.37), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

533.37 ENFORCEMENT OF IOWA CONSUMER CREDIT CODE.

1. The administrator of the credit union department shall enforce the Iowa consumer credit code with respect to credit unions, as provided in sections five hundred thirty-seven point two thousand three hundred three (537.2303), five hundred thirty-seven point two thousand three hundred five (537.2305) and five hundred thirty-seven point six thousand one hundred five (537.6105) of the Code.

2. The administrator of the credit union department shall cooperate with the administrator of the Iowa consumer credit code as designated in section five hundred thirty-seven point six thousand one hundred three (537.6103) of the Code, and shall assist that administrator whenever necessary to provide for the discharge of the duties of that administrator.

3. Notwithstanding other provisions of this chapter to the contrary, the administrator of the credit union department shall authorize to be furnished to the administrator of the Iowa consumer credit code, access to or copies of records in the custody of the credit union department which relate to a credit union, when necessary to enable the administrator of the Iowa consumer credit code to enforce chapter five hundred thirty-seven (537) of the Code.

Sec. 42. Section five hundred thirty-three point thirty-eight (533.38), subsection two (2), Code 1977, is amended to read as follows:

2. It may buy or sell investment securities and corporate bonds which are evidences of indebtedness. However, the buying and selling of such investment securities and corporate bonds shall be limited to buying and selling without recourse to marketable obligations evidencing indebtedness of any corporation or state or federal agency, under further definitions of the term "investment securities" as

prescribed by the superintendent administrator. The total amount of the investment securities of any one obligor or maker held by the credit union shall at no time exceed five percent of the shares, undivided earnings and reserves of the credit union except that this limit shall not apply to obligations of the federal government. The aggregate total of the investment securities held by the credit union shall not exceed fifteen percent of the shares, undivided earning and reserves of said credit union.

Sec. 43. Effective January 1, 1979, all of the jurisdiction, authorities, powers, records, duties and reserves conferred and imposed upon the superintendent of banking by the laws of this state which are in existence as of December 31, 1978, and which pertain to credit unions shall be transferred to the credit union department. All funds held in the general fund as of January 1, 1979 for the use of the superintendent of banking which pertain to credit union supervision and examination fees shall be transferred to the credit union department effective January 1, 1979.

All department of banking personnel who are assigned to the credit union division may transfer to the credit union department created by section three (3) of this Act effective January 1, 1979. However, no person shall be transferred in a supervisory capacity. Supervisory personnel shall be appointed at the discretion of the administrator.

Sec. 44. This Act shall take effect January 1, 1979.

Approved June 26, 1978, except the item designated as Subsection 2 of Section 5 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit Senate File 137, an act relating to the operation and regulation of credit unions, and providing penalties.

Senate File 137 is approved June 26, 1978, with the following exception which I hereby disapprove.

I am unable to approve the item designated in the Act as Subsection 2 of Section 5 which reads as follows:

2. The board shall set the salary and prescribe the duties of the administrator who shall serve at the pleasure of the governor.

This provision authorizes the Credit Union Review Board to set the salary of the administrator of the Credit Union Department and to prescribe the duties of the administrator. This provision runs counter to the concept of effective executive management.

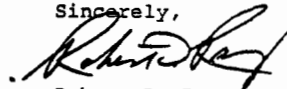
Our department heads carry out the policies of the executive branch of government. The Iowa Constitution establishes the Governor to be the chief executive to whom our department heads are accountable. Their accountability to the people is through the Governor. Therefore, it is logical that not only should the Governor appoint a director, but also the salary and duties should be prescribed as well.

The Governor sets the salaries of other department heads, including the Superintendent of Banking who currently regulates credit unions. The new Credit Union Department will be a regular, full-fledged state agency and should be governed by the same basic rules.

Since Section 43 specifically directs the transfer of funds earlier appropriated to the Banking Department to the new Credit Union Department on January 1, 1979, this bill is, therefore, an appropriation bill subject to the item veto.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 137 are hereby approved as of this date.

Sincerely,



Robert D. Ray
Governor

CHAPTER 1170
AGRICULTURAL WAREHOUSES

S. F. 321

AN ACT relating to bonded agricultural warehouses.

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

Section 1. Section five hundred forty-three point one (543.1), subsections five (5), ten (10), eleven (11), fourteen (14) and fifteen (15), Code 1977, are amended to read as follows:

5. "Grain" shall mean wheat, corn, oats, barley, rye, flaxseed, field peas, soybeans, grain sorghums, spelt, and similar agricultural products, as defined in the Grain Standards Act.

10. "~~Delivery~~ Receiving and loadout charge" shall mean the charge made by the warehouseman for receiving grain into and ~~delivering~~ loading grain from the warehouse, exclusive of the warehouseman's other charges.

11. "Unlicensed warehouseman" means a warehouseman who retains grain in his warehouse not to exceed ~~ten~~ thirty days and is not licensed under the provisions of this chapter or Title VII, U.S.C.

14. "Station" means a warehouse located more than three miles from the central office of the warehouse ~~or-in-a different-city-than-the-central-office.~~

15. "Warehouseman's obligation" means a sufficient quantity and quality of grain or other products for which a warehouseman is licensed including company owned grain and grain of depositors as the warehouseman's records indicate. For an unlicensed warehouseman it means a sufficient quantity and quality to cover company owned and all deposits of grain for which actual payment has not been made. At no time may a warehouseman have less grain or other agricultural products in ~~his~~ the warehouse than ~~his~~ the obligations to depositors, as determined by investigation of the warehouseman's records.

Sec. 2. Section five hundred forty-three point one (543.1), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. "Grain Standards Act" means the United States Grain Standards Act, as amended to and including January 1, 1977.

NEW SUBSECTION. "Official grain standards" means the standards of quality and condition of grain which establishes

the grade, fixed and established by the secretary of agriculture under the Grain Standards Act.

NEW SUBSECTION. "Grain bank" means grain owned by a depositor and held temporarily by the warehouseman for use in the formulation of feed or to be processed and returned to the depositor on demand.

NEW SUBSECTION. "License" means a license issued under this chapter.

Sec. 3. Section five hundred forty-three point two (543.2), Code 1977, is amended to read as follows:

543.2 DUTIES AND POWERS OF THE COMMISSION. The commission is authorized to exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products. The commission may inspect or cause to be inspected any warehouse and may require the filing of reports describing any warehouse or the operation thereof. If upon any such inspection a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouseman's books and records according to official grain standards, the commission shall have the authority to, and may require an employee to remain at the licensed warehouse and supervise all operations conducted thereat involving agricultural products stored under the provisions of this chapter until the deficiency is corrected. The commission shall inspect or cause to be inspected every licensed warehouse and the contents thereof not less than once every six months and the commission shall have authority to make available to the United States government, or any of its agencies, including the Commodity Credit Corporation, the results of inspections made and inspection reports submitted to it by employees of the commission, upon payment to it of such charges as may be determined by the commission, but in no event shall such charges be less than the actual cost of such services rendered in regard thereto, as determined by the commission. The commission shall have authority to enter into contracts and agreements for such purpose and shall keep a record of all money thus received. All such money shall be paid over to the treasurer of state as miscellaneous receipts. The commission may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of any warehouse the type or types and the quantity of agricultural products which may be exclusively stored in such warehouse.

The commission may prescribe, within the limitations of this chapter, the duties of licensed warehousemen with respect to the care of and responsibility for the contents of licensed warehouses. ~~The commission may from time to time establish and publish standards for agricultural products by which quality or value of such products may be judged or determined.~~ Grain grades shall be determined under the official grain standards. The commission may from time to time publish such data in connection with the administration of this chapter as may be of public interest. The commission shall have the duty of administration of the further provisions of this chapter.

Sec. 4. Section five hundred forty-three point four (543.4), Code 1977, is amended to read as follows:

543.4 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY. The commission is authorized, upon application to it, to issue to any warehouseman or to any person about to become a warehouseman a license or licenses for the operation of a warehouse or warehouses in accordance with the provisions of this chapter and such rules ~~and regulations~~ as may be made by the commission under the authority of section 543.3. A single license may be issued for the operation of two or more warehouses located in the same city and operated by the same warehouseman. A license to operate two or more warehouses located ~~in different cities~~ within a twenty-five mile radius of a central office may be issued ~~under a single application~~, but a separate fee shall be charged for each station. An application for a warehouse license shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and net worth of the applicant. The financial statement must be prepared according to normally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon petition being filed with the commission, the commission may allow asset valuations in accordance with a competent appraisal. Deferred pricing contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared. In order to receive and retain a license the applicant must have and maintain a net worth of at least twenty-five thousand dollars or provide bond in addition to that required by section five hundred forty-three point twelve (543.12) of the Code in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency.

Sec. 5. Section five hundred forty-three point five (543.5), subsection six (6), Code 1977, is amended to read as follows:

6. A complete financial statement for use of the commission in the administration of this chapter, as required by section five hundred forty-three point four (543.4) of the Code.

Sec. 6. Section five hundred forty-three point ten (543.10), Code 1977, is amended to read as follows:

543.10 SUSPENSION OR REVOCATION OF LICENSE. The commission is empowered after hearing before it and upon information being filed with the commission by the duly authorized head of the warehouse division of the commission or upon complaint filed by any person to suspend or revoke the license of anyone licensed under this chapter for the violation of or failure to comply with the provisions of this chapter or any rule made in pursuance of the authority therefor granted under this chapter. An information or a verified complaint stating the grounds for suspension or revocation shall be filed with the commission in triplicate, and thereupon the commission shall serve the licensee complained against with a copy of the information or the complaint and a copy of the order of the commission fixing the time for hearing thereon, which time shall be at least twenty ten days from the date of service. ~~If the commission determines that the public good requires it, it may upon the filing of the information or the complaint and without hearing, temporarily suspend a license pending the determination by it of the complaint. Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure Act.~~

If upon the filing of the information or complaint the commission finds that the licensee has failed to meet the warehouseman's obligation or otherwise has violated or failed to comply with the provisions of this chapter or any rule promulgated under this chapter, and if the commission finds that the public health, safety or welfare imperatively requires emergency action, then the commission without hearing may order a summary suspension of the license in the manner provided in section seventeen A point eighteen (17A.18) of the Code. When so ordered, a copy of the order of suspension shall be served upon the licensee at the time the information or complaint is served as provided in this section.

Judicial review of the actions of the commission may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 7. Section five hundred forty-three point eleven (543.11), Code 1977, is amended to read as follows:

543.11 SUSPENSION OR REVOCATION OF LICENSE FOR INSUFFICIENCY OF BOND OR INSURANCE. Whenever the commission shall determine that a bond filed under the provisions of section 543.12 and approved by the commission, is, or has become, insufficient to secure the faithful performance of the obligations of the licensed warehouseman, or whenever the commission shall determine that insurance is not fully provided as required under section 543.15, it may require the licensed warehouseman to provide additional bond or bonds or additional evidence of insurance coverage so that the bond and insurance shall conform with the requirements of sections 543.12, 543.13, and 543.15. If such additional insurance is not provided within five days after notice by certified mail the license of the warehouseman concerned shall be automatically suspended. If such additional insurance is not filed within another twenty-five days, the warehouse license shall be automatically revoked. If additional bond is not provided within thirty days after receiving notice by certified mail the warehouse license shall be suspended. If such additional bond is not filed within sixty days the warehouse license shall be automatically revoked. When a license is so revoked, the commission shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of such revocation. The commission shall further notify each receipt holder and all known persons who have grain retained in open storage that ~~his~~ the grain must be removed from the warehouse not later than the thirtieth day following the initial revocation as herein set forth. Such notice shall be by ordinary mail sent to the last known address of each receipt-holder person having grain in storage as provided in this section.

Whenever the commission shall receive notice from a surety that it has canceled the bond of a warehouseman, the commission shall automatically suspend the warehouse license if a new bond is not received by the commission within thirty days of receipt of the notice of cancellation. The commission shall cause an inspection of the licensed warehouse immediately at the end of such thirty-day period. If a new bond is not received within sixty days of receipt of the notice of cancellation the commission shall revoke the warehouse license. The commission shall cause a further inspection of the licensed warehouse at the end of such sixty-day period. When a license

is so revoked the commission shall give notice of such revocation to each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage. The commission shall further notify each receipt holder and all known persons who have grain retained in open storage that ~~his~~ the grain must be removed from the warehouse not later than the ninetieth day following receipt of notice of cancellation, by the commission. Such notice ~~to each receipt holder~~ shall be sent by ordinary mail to the last known address of each ~~receipt-holder~~ person having grain in storage as provided in this section. The commission shall cause a final inspection of the licensed warehouse immediately after the end of such ninety-day period.

Sec. 8. Section five hundred forty-three point fourteen (543.14), unnumbered paragraph two (2), Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

Upon revocation, termination or cancellation of a warehouse license, any claim against the warehouseman arising under this chapter shall be made in writing with the warehouseman and with the surety on the warehouse bond within one hundred twenty days after revocation, termination or cancellation. Failure to make a timely claim shall relieve the surety of all obligations to the claimant, however, this section shall not be construed to reduce the aggregate liability of the surety to other claimants below the face amount of the bond then in effect. Upon revocation of a warehouse license, the commission shall cause notice of such revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the warehouseman, the effective date of revocation, and the name and address of the surety on the warehouse bond. The notice shall also state that any claims against the warehouseman shall be made in writing and sent by ordinary mail to the warehouseman and the surety on the warehouse bond within one hundred twenty days after revocation. The provisions of this paragraph shall not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the commission prior to the expiration of one hundred twenty days after revocation, termination or cancellation of the license.

Sec. 9. Section five hundred forty-three point seventeen

(543.17), Code 1977, is amended to read as follows:

543.17 RECEIVING BULK GRAIN AT LICENSED AND UNLICENSED WAREHOUSES.

1. Any grain which has been received at any licensed warehouse for which the actual sale price is not fixed and proper documentation made or payment made shall be construed to be grain held for storage within the meaning of this chapter. Grain may be held in open storage or placed on warehouse receipt. Actual payment shall be made on all priced grain, ~~er-warehouse~~ within thirty days unless a deferred payment or deferred pricing contract has been executed. Warehouse receipts shall be issued for all grain held in open storage, within six months of delivery to the warehouse, unless the depositor has signed a statement that he the depositor does not desire a warehouse receipt ~~or-unless-a-deferred-payment contract-has-been-concluded-pursuant-to-subsection-2.~~ Any ~~deposit-of-grain-for-which-the-price-has-not-been-fixed-and properly-documented-within-thirty-days-from-delivery-to-the warehouse-shall-be-deemed-as-storage.~~ The warehouseman's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.

Bulk grain deposited with a licensed warehouseman for processing, cleaning, drying, shipping for the account of the depositor or any other purpose shall be removed within thirty days or such grain shall be determined as stored grain and the warehouseman's tariff charges shall apply.

Grain received on a scale ticket which fails to have the price fixed and properly documented on the records of the warehouseman shall be construed to be in open storage ~~and shall-be-covered-by-the-warehouseman's-bond-within-the provisions-of-this-chapter.~~

All grain whether open storage or having been placed on warehouse receipt shall be covered by the warehouseman's bond as required under the provisions of this chapter.

2. Notwithstanding any provisions of this section, a written agreement may be made between the seller and the licensed warehouseman for any bulk grain delivered to or stored at a licensed warehouse that payment or pricing and payment will be deferred to a later date. Such agreement shall contain a statement informing the seller that the warehouseman shall not be required to carry insurance or bond on such grain for the benefit of the seller and that the payment for such grain becomes a common claim against the warehouseman.

The agreement in addition to such other information as may be required shall contain the following:

- a. The seller's or depositor's name and address.
- b. The conditions of delivery.
- c. The amount and kind of grain delivered.
- d. The price per bushel or basis of value.
- e. The date payment is to be made.

Such agreement must be numbered and signed by both parties and executed in duplicate. One copy shall be retained by the warehouseman and one copy shall be delivered to the seller.

Grain received or purchased in storage under a deferred payment or deferred pricing contract under the provisions of this section shall ~~not~~ be deemed as to be warehouse owned grain.

Any grain which has been received at any unlicensed warehouse and for which the actual sale price has not been fixed and payment made within ten thirty days from receipt of the grain, unless covered by deferred payment or deferred pricing contract, shall be construed to be grain-held-for unlawful storage within the meaning of this chapter. Bulk grain received at any unlicensed warehouse for any other purpose must either be returned to the depositor or disposed of by order of the depositor within ten thirty days from date of actual deposit of the bulk grain.

If the depositor of bulk grain in an unlicensed warehouse fails to sell the grain or orders other disposition of the grain, the warehouseman may purchase the grain on the tenth thirtieth day after deposit at not less than the local market price at the close of business on the tenth thirtieth day or return the grain to the depositor by the tenth thirtieth day.

3. Every licensed warehouseman shall, on or before July first of each year, send a statement for each holder of a warehouse receipt covering grain held for more than one year at that warehouse to his or her last known address. The statement shall show the amount of all grain held pursuant to warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouseman against that grain. However, a licensed warehouseman need not prepare this annual statement for a holder of a warehouse receipt, if the licensed warehouseman prepares such statements monthly, quarterly or for any other period more frequent than annually. Failure to prepare a statement required by this subsection shall be punishable

by a civil fine not to exceed one hundred dollars. Violation of this section shall not constitute grounds for suspension, revocation, or modification of the license of anyone licensed under this chapter.

Sec. 10. Section five hundred forty-three point twenty-eight (543.28), unnumbered paragraphs two (2), three (3) and four (4), Code 1977, are amended to read as follows:

The minimum receiving or loadout charge for bulk grain shall be two cents per bushel. No receiving or loadout charge shall be made for products sold to the warehouseman whether such product has been in storage or not. The specific receiving or loadout charge herein provided shall not be mandatory as to grain received into grain elevators from railroad cars nor as to grain sold by a warehouseman and carried as storage for the purchaser. Minimum storage, receiving or loadout charges set forth in the Code or established by the commission shall not apply to grain stored with the warehouseman which is stored for the sole purpose of processing and redelivery to the original depositor. Drying shall not be considered as processing of grain.

The storage charges herein provided for shall commence on the date of receiving into the warehouse. Provided, however, that a storage, receiving or loadout charge other than that specified above may be made, if such charge is required by the terms of a written contract with the United States government, any of its subdivisions or agencies, providing copy of such contract is filed with the commission.

Rates for storage, conditioning of stored products and delivery receiving or loadout charges shall be just, reasonable, and nondiscriminatory, and every unjust, unreasonable, and discriminatory charge for such services or any part thereof and not in accordance with tariffs as herein provided, is prohibited and is hereby declared to be unlawful.

Sec. 11. Section five hundred forty-three point thirty-seven (543.37), Code 1977, is amended to read as follows:

543.37 FAILURE TO PAY FEE. Failure to pay the annual fee provided for in section 543.33 on or before the date the same shall become due shall cause a license to terminate. The annual fee shall become due on June ~~30~~ thirtieth each year. A warehouse license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, current financial statement, renewal fee and a penalty fee in the amount of ten dollars from the warehouse

if such are filed within thirty days from the date of termination of the warehouse license. The commission may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Sec. 12. Section five hundred forty-three point thirty-nine (543.39), unnumbered paragraph one (1), and subsections one (1) and four (4), Code 1977, are amended to read as follows:

A licensed warehouseman may store grain in any other licensed warehouse in Iowa in addition to ~~his~~ the warehouseman's own facilities, subject to the following conditions:

1. ~~He~~ The warehouseman must obtain from such warehouseman a nonnegotiable warehouse receipt and such receipt must show clearly the following notation: "Held in trust for depositors of" (~~customer's name and address~~ name of original receiving warehouse).

4. A licensed warehouseman shall not accept grain for storage from another licensed warehouseman while ~~he~~ such warehouseman has grain stored elsewhere under the provisions of this section.

Sec. 13. Chapter five hundred forty-three (543), Code 1977, is amended by adding the following new section:

NEW SECTION. APPOINTMENT OF COMMISSION AS RECEIVER.

1. The commission in its discretion may, following summary suspension of a license under section five hundred forty-three point ten (543.10) of the Code, or following a suspension or revocation of a license as otherwise provided in section five hundred forty-three point ten (543.10) or five hundred forty-three point eleven (543.11) of the Code, file a verified petition in the district court requesting that the commission be appointed as a receiver to take custody of commodities stored in the licensee's warehouse and to provide for the disposition of those assets in the manner provided in this chapter and under the supervision of the court. The petition shall be filed in the county in which the warehouse is located. The district court shall appoint the commission as receiver. Upon the filing of the petition the court shall issue ex parte such temporary orders as may be necessary to preserve or protect the assets in receivership, or the value thereof, and the rights of depositors, until a plan of disposition is approved.

2. A petition filed by the commission under subsection

one (1) of this section shall be accompanied by the commission's plan for disposition of stored commodities. The plan may provide for the pro rata delivery of part or all of the stored commodities to depositors holding warehouse receipts or unpriced scale weight tickets, or may provide for the sale under the supervision of the commission of part or all of the stored commodities for the benefit of those depositors, or may provide for any combination thereof, as the commission in its discretion determines to be necessary to minimize losses.

3. When a petition is filed by the commission under subsection one (1) of this section the clerk of court shall set a date for hearing on the commission's proposed plan of disposition at a time not less than ten nor more than fifteen days after the date the petition is filed. Copies of the petition, the notice of hearing, and the commission's plan of disposition shall be served upon the licensee and upon the surety company issuing the licensee's bond in the manner required for service of an original notice. A delay in effecting service upon the licensee or surety shall not be cause for denying the appointment of a receiver and shall not be grounds for invalidating any action or proceeding in connection therewith.

4. The commission shall cause a copy of each of the documents served upon the licensee under subsection three (3) of this section to be mailed by ordinary mail to every person holding a warehouse receipt or unpriced scale weight ticket issued by the licensee, as determined by the records of the licensee or the records of the commission. The failure of any person referred to in this subsection to receive the required notification shall not invalidate the proceedings on the petition for the appointment of a receiver or any portion thereof. Persons referred to in this subsection are not parties to the action unless admitted by the court upon application therefor.

5. When appointed as a receiver under this chapter, the commission shall cause notification of the appointment to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location, and in a newspaper of general circulation in this state.

6. The commission may designate an employee of the commission to appear on behalf of the commission in any proceedings before the court with respect to the receivership,

and to exercise the functions of the commission as receiver under this section and section fourteen (14) of this Act, except that the commission shall determine whether or not to petition for appointment as receiver, shall approve the proposed plan for disposition of stored commodities, shall approve the proposed plan for distribution of any cash proceeds, and shall approve the proposed final report.

7. The actions of the commission in connection with petitioning for appointment as a receiver, and all actions pursuant to such appointment shall not be subject to the provisions of the administrative procedure Act.

Sec. 14. Chapter five hundred forty-three (543), Code 1977, is amended by adding the following new section:

NEW SECTION. POWERS AND DUTIES OF RECEIVER.

1. When the commission is appointed as receiver under this chapter the surety on the bond of the licensee shall be joined as a party defendant by the commission. If required by the court, the surety shall pay the bond proceeds or so much thereof as the court finds necessary into the court, and when so paid the surety shall be absolutely discharged from any further liability under the bond to the extent of the payment.

2. When appointed as receiver under this chapter the commission is authorized to give notice in the manner specified by the court to persons holding warehouse receipts or other evidence of deposit issued by the licensee to file their claims within one hundred twenty days after the date of appointment. Failure to timely file a claim shall defeat the claim with respect to the surety bond and any commodities or proceeds from the sale of commodities, except to the extent of any excess remaining after all timely filed claims are paid in full.

3. When the court approves the sale of commodities, the commission shall employ a merchandiser to effect the sale of those commodities. A person employed as a merchandiser must meet the following requirements:

a. The person shall be experienced or knowledgeable in the operation of warehouses licensed under this chapter; and if the person has ever held a license issued under this chapter, the person shall never have had that license suspended or revoked.

b. The person shall be experienced or knowledgeable in the marketing of agricultural products.

c. The person shall not be the holder of a warehouse

receipt or scale weight ticket issued by the licensee, and shall not have a claim against the licensee whether as a secured or unsecured creditor, and otherwise shall not have any pecuniary interest in the licensee or the licensee's business. The merchandiser shall be entitled to reasonable compensation as determined by the commission, payable out of funds appropriated for operating expenses of the commission. A sale of commodities shall be made in a commercially reasonable manner and under the supervision of the warehouse division of the commission. The commission shall provide for the payment out of appropriations to the commission of all expenses incurred in handling and disposing of commodities. The commission shall have authority to sell the commodities, any provision of chapter five hundred fifty-four (554) of the Code to the contrary notwithstanding, and any commodities so sold shall be free of all liens and other encumbrances.

4. The plan of disposition, as approved by the court, shall provide for the distribution of the stored commodities, or the proceeds from the sale of commodities, or the proceeds from any insurance policy or surety bond, or any combination thereof, less expenses incurred by the commission in connection with the receivership, to depositors on a pro rata basis as their interests are determined. Distribution shall be without regard to any setoff, counterclaim, or storage lien or charge.

5. The commission may, with the approval of the court, continue the operation of all or any part of the business of the licensee on a temporary basis and take any other course of action or procedure which will serve the interests of the depositors.

6. The commission shall be entitled to reimbursement out of commodities or proceeds held in receivership for all expenses incurred as court costs or in handling and disposing of stored commodities, and for all other costs directly attributable to the receivership. The right of reimbursement of the commission shall be prior to any claims against the commodities or proceeds of sales thereof, and shall constitute a claim against the surety bond of the licensee.

7. In the event the approved plan of disposition requires the sale of commodities, or the distribution of proceeds from the surety bond, or both, the commission shall submit to the court a proposed plan of distribution of those proceeds. Upon such notice and hearing as may be required by the court, the court shall accept or modify the proposed plan. When the plan is approved by the court and executed by the

commission, the commission shall be discharged and the receivership terminated.

8. At the termination of the receivership the commission shall file a final report containing the details of its actions, together with such additional information as the court may require.

Sec. 15. Section five hundred forty-three point thirty-nine (543.39), Code 1977, is amended by striking subsection two (2).

Sec. 16. Section five hundred forty-three point twenty-two (543.22), Code 1977, is repealed.

Approved June 23, 1978

CHAPTER 1171

LIFE ESTATE IN LEASED PROPERTY

H. F. 433

AN ACT relating to the termination of a life estate in real property which has been leased.

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

Section 1. Chapter five hundred sixty-two (562), Code 1977, is amended by adding the following new section:

NEW SECTION. TERMINATION OF LIFE ESTATE--FARM TENANCY. Upon the termination of a life estate, a farm tenancy granted by the life tenant shall continue until the following March first except that if the life estate terminates between September first and the following March first inclusively, then the farm tenancy shall continue for that year as provided by section five hundred sixty-two point six (562.6) of the Code and continue until notice of termination is given by the holder of the successor interest in the manner provided by section five hundred sixty-two point seven (562.7) of the Code. However, if the lease is binding upon the holder of the successor interest by the provision of a trust or by specific commitment of the holder of the successor interest, the lease shall terminate as provided by that provision or commitment. This section shall not be construed to abrogate the common law doctrine of emblements.

Sec. 2. Chapter five hundred sixty-two (562), Code 1977, is amended by adding the following new section:

NEW SECTION. TERMINATION OF LIFE ESTATE--NONFARM TENANCY. Upon the termination of a life estate, a tenancy granted by

the life tenant which is not a farm tenancy shall continue until one of the following first occurs:

1. The date previously agreed upon for termination of the tenancy without notice.
2. If the tenant is a tenant at will, upon the expiration of the period provided by section five hundred sixty-two point four (562.4) of the Code.
3. If the tenancy is for less than one year, sixty days after the end of the month in which the life estate terminated.
4. If the tenancy is for a year or more, one year after the end of the month in which the life estate terminated. However, if the lease is binding upon the holder of the successor interest by the provision of a trust or by specific commitment of the holder of the successor interest, the lease shall terminate as provided by that provision or commitment.

Sec. 3. Chapter five hundred sixty-two (562), Code 1977, is amended by adding the following new section:

NEW SECTION. RENTAL VALUE. The holder of the interest succeeding a life estate who is required by sections one (1) or two (2) of this Act to continue a tenancy shall be entitled to a rental amount equal to the prevailing fair market rental amount in the area. If the parties cannot agree on a rental amount, either party may petition the district court for a declaratory judgment setting the rental amount. The costs of the action shall be divided equally between the parties.

Sec. 4. This Act is effective January 1, 1979.

Approved May 8, 1978

CHAPTER 1172

UNIFORM RESIDENTIAL LANDLORD AND TENANT LAW

H. F. 2244

AN ACT to adopt the uniform landlord tenant Act as modified and providing penalties.

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

ARTICLE I

GENERAL PROVISIONS AND DEFINITIONS

Part I

SHORT TITLE, CONSTRUCTION, APPLICATION

AND SUBJECT MATTER OF THE ACT

Section 1. NEW SECTION. SHORT TITLE. This Act shall be known and may be cited as the Uniform Residential Landlord and Tenant Act.

Sec. 2. NEW SECTION. PURPOSES--RULES OF CONSTRUCTION.

1. This Act shall be liberally construed and applied to promote its underlying purposes and policies.

2. Underlying purposes and policies of this Act are:

a. To simplify, clarify, modernize and revise the law governing the rental of dwelling units and the rights and obligations of landlord and tenant; and

b. To encourage landlord and tenant to maintain and improve the quality of housing.

c. To insure that the right to the receipt of rent is inseparable from the duty to maintain the premises.

Sec. 3. NEW SECTION. SUPPLEMENTARY PRINCIPLES OF LAW APPLICABLE. Unless displaced by the provisions of this Act, the principles of law and equity in this state, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause, shall supplement its provisions.

Sec. 4. NEW SECTION. ADMINISTRATION OF REMEDIES-- ENFORCEMENT.

1. The remedies provided by this Act shall be administered so that the aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

2. A right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

Part II

SCOPE AND JURISDICTION

Sec. 5. NEW SECTION. EXCLUSIONS FROM APPLICATION OF ACT. Unless created to avoid the application of this Act, the following arrangements are not governed by this Act:

1. Residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service.

2. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his or her interest.

3. Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization.

4. Transient occupancy in a hotel, motel or other similar lodgings.

5. Occupancy by an employee of a landlord whose right

to occupancy is conditional upon employment in and about the premises.

6. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.

7. Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes.

Part III

GENERAL DEFINITIONS AND

PRINCIPLES OF INTERPRETATION; NOTICE.

Sec. 6. NEW SECTION. GENERAL DEFINITIONS. Subject to additional definitions contained in subsequent articles of this Act which apply to specific articles or its parts, and unless the context otherwise requires, in this Act:

1. "Building and housing codes" include a law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of a premise or dwelling unit.

2. "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place.

3. "Good faith" means honesty in fact in the conduct of the transaction concerned.

4. "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by section thirteen (13) of this Act.

5. "Business" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

6. "Owner" means one or more persons, jointly or severally, in whom is vested:

a. All or part of the legal title to property; or

b. All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

7. "Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances of it and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

8. "Rent" means a payment to be made to the landlord under the rental agreement.

9. "Rental agreement" means an agreement written or oral, and a valid rule, adopted under section eighteen (18) of this Act, embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

10. "Rental deposit" means a deposit of money to secure performance of a residential rental agreement, other than a deposit which is exclusively in advance payment of rent.

11. "Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. Major facility in the case of a bathroom means toilet, or either a bath or shower, and in the case of a kitchen means refrigerator, stove or sink.

12. "Single family residence" means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with another dwelling unit.

13. "Tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of another.

14. "Reasonable attorney's fees" means fees determined by the time reasonably expended by the attorney and not by the amount of the recovery on behalf of the tenant or landlord.

Sec. 7. NEW SECTION. UNCONSCIONABILITY.

1. If the court, as a matter of law, finds that:

a. A rental agreement or any provision of it was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of an unconscionable provision to avoid an unconscionable result.

b. A settlement in which a party waives or agrees to forego a claim or right under this Act or under a rental agreement was unconscionable at the time it was made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of an unconscionable provision to avoid any unconscionable result.

2. If unconscionability is put into issue by a party or by the court upon its own motion the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose, and effect of the rental agreement or settlement

to aid the court in making the determination.

Sec. 8. NEW SECTION. NOTICE.

1. A person has notice of a fact if such person has actual knowledge of it, has received a notice or notification of it or, if from all the facts and circumstances known to that person at the time in question, such person has reason to know that it exists. A person "knows" or "has knowledge" of a fact if such person has actual knowledge of it.

2. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when it comes to that person's attention or in the case of the landlord, it is delivered at the place of business of the landlord through which the rental agreement was made or at a place held out by the landlord as the place for receipt of the communication or, when in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to such person at the place held out by such person as the place for receipt of the communication, or in the absence of such designation, to such person's last known place of residence.

3. "Notice," knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting that transaction, and in any event from the time it would have been brought to the attention of such person if the organization had exercised reasonable diligence.

Part IV

GENERAL PROVISIONS

Sec. 9. NEW SECTION. TERMS AND CONDITIONS OF RENTAL AGREEMENT.

1. The landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this Act or other rule of law including rent, term of the agreement, and other provisions governing the rights and obligations of the parties.

2. In absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

3. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments at the

beginning of each month. Unless otherwise agreed, rent shall be uniformly apportionable from day-to-day.

4. Unless the rental agreement fixes a definite term, the tenancy shall be week-to-week in case of a roomer who pays weekly rent, and in all other cases month-to-month.

Sec. 10. NEW SECTION. EFFECT OF UNSIGNED OR UNDELIVERED RENTAL AGREEMENT.

1. If a landlord does not sign and deliver a written rental agreement signed and delivered to the landlord by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.

2. If a tenant does not sign and deliver a written rental agreement signed and delivered to the tenant by the landlord, acceptance of possession without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.

3. If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective only for one year.

Sec. 11. NEW SECTION. PROHIBITED PROVISIONS IN RENTAL AGREEMENTS.

1. A rental agreement shall not provide that the tenant or landlord:

a. Agrees to waive or to forego rights or remedies under this Act provided that this restriction shall not apply to rental agreements covering single family residences on land assessed as agricultural land and located in an unincorporated area;

b. Authorizes a person to confess judgment on a claim arising out of the rental agreement;

c. Agrees to pay the other party's attorney fees; or

d. Agrees to the exculpation or limitation of any liability of the other party arising under law or to indemnify the other party for that liability or the costs connected therewith.

2. A provision prohibited by subsection one (1) of this section included in a rental agreement is unenforceable.

If a landlord willfully uses a rental agreement containing provisions known by the landlord to be prohibited, a tenant may recover actual damages sustained by the tenant and not more than three months' periodic rent and reasonable attorney's fees.

ARTICLE II

LANDLORD OBLIGATIONS

Sec. 12. NEW SECTION. RENTAL DEPOSITS.

1. A landlord shall not demand or receive as rental deposit and prepaid rent an amount or value in excess of two months' rent.

2. All rental deposits shall be held by the landlord for the tenant, who is a party to the agreement, in a bank or savings and loan association or credit union which is insured by an agency of the federal government. Rental deposits shall not be commingled with the personal funds of the landlord. Notwithstanding the provisions of chapter one hundred seventeen (117) of the Code, all rental deposits may be held in a trust account, which may be a common trust account and which may be an interest bearing account. Any interest earned on a rental deposit during the first five years of a tenancy shall be the property of the landlord.

3. A landlord shall, within thirty days from the date of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return the rental deposit to the tenant or furnish to the tenant a written statement showing the specific reason for withholding of the rental deposit or any portion thereof. If the rental deposit or any portion of the rental deposit is withheld for the restoration of the dwelling unit, the statement shall specify the nature of the damages. The landlord may withhold from the rental deposit only such amounts as are reasonably necessary for the following reasons:

a. To remedy a tenant's default in the payment of rent or of other funds due to the landlord pursuant to the rental agreement.

b. To restore the dwelling unit to its condition at the commencement of the tenancy, ordinary wear and tear excepted.

c. To recover expenses incurred in acquiring possession of the premises from a tenant who does not act in good faith in failing to surrender and vacate the premises upon noncompliance with the rental agreement and notification of such noncompliance pursuant to this Act.

In an action concerning the rental deposit, the burden of proving, by a preponderance of the evidence, the reason for withholding all or any portion of the rental deposit shall be on the landlord.

4. A landlord who fails to provide a written statement within thirty days of termination of the tenancy and receipt

of the tenant's mailing address or delivery instructions shall forfeit all rights to withhold any portion of the rental deposit. If no mailing address or instructions are provided to the landlord within one year from the termination of the tenancy the rental deposit shall revert to the landlord and the tenant will be deemed to have forfeited all rights to the rental deposit.

5. Upon termination of a landlord's interest in the dwelling unit, the landlord or an agent of the landlord shall, within a reasonable time, transfer the rental deposit, or any remainder after any lawful deductions to the landlord's successor in interest and notify the tenant of the transfer and of the transferee's name and address or return the deposit, or any remainder after any lawful deductions to the tenant.

Upon the termination of the landlord's interest in the dwelling unit and compliance with the provisions of this subsection, the landlord shall be relieved of any further liability with respect to the rental deposit.

6. Upon termination of the landlord's interest in the dwelling unit, the landlord's successor in interest shall have all the rights and obligations of the landlord with respect to the rental deposits, except that if the tenant does not object to the stated amount within twenty days after written notice to the tenant of the amount of rental deposit being transferred or assumed, the obligations of the landlord's successor to return the deposit shall be limited to the amount contained in the notice. The notice shall contain a stamped envelope addressed to landlord's successor and may be given by mail or by personal service.

7. The bad faith retention of a deposit by a landlord, or any portion of the rental deposit, in violation of this section shall subject the landlord to punitive damages not to exceed two hundred dollars in addition to actual damages.

8. The court may, in any action on a rental agreement, award reasonable attorney fees to the prevailing party.

Sec. 13. NEW SECTION. DISCLOSURE.

1. The landlord or a person authorized to enter into a rental agreement on behalf of the landlord shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

- a. The person authorized to manage the premises.
- b. An owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting

for notices and demands.

2. The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against a successor landlord, owner, or manager.

3. A person who fails to comply with subsection one (1) of this section becomes an agent of each person who is a landlord for the purpose of:

a. Service of process and receiving and receipting for notices and demands.

b. Performing the obligations of the landlord under this Act and under the rental agreement and expending or making available for that purpose all rent collected from the premises.

4. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall fully explain utility rates, charges and services to the prospective tenant before the rental agreement is signed unless paid by the tenant directly to the utility company.

5. Each tenant shall be notified, in writing, of any rent increase at least thirty days before the effective date. Such effective date shall not be sooner than the expiration date of the original rental agreement or any renewal or extension thereof.

Sec. 14. NEW SECTION. LANDLORD TO SUPPLY POSSESSION OF DWELLING UNIT. At the commencement of the term, the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and section fifteen (15) of this Act. The landlord may bring an action for possession against a person wrongfully in possession and may recover the damages provided in section thirty-four (34), subsection three (3) of this Act.

Sec. 15. NEW SECTION. LANDLORD TO MAINTAIN FIT PREMISES.

1. The landlord shall:

a. Comply with the requirements of applicable building and housing codes materially affecting health and safety.

b. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition.

c. Keep all common areas of the premises in a clean and safe condition. The landlord shall not be liable for any injury caused by any objects or materials which belong to or which have been placed by a tenant in the common areas of the premises used by the tenant.

d. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating,

air-conditioning, and other facilities and appliances, including elevators, supplied or required to be supplied by the landlord.

e. Provide and maintain appropriate receptacles and conveniences, accessible to all tenants, for the central collection and removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal.

f. Supply running water and reasonable amounts of hot water at all times and reasonable heat, except where the building that includes the dwelling unit is not required by law to be equipped for that purpose, or the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection.

If the duty imposed by paragraph a of this subsection is greater than a duty imposed by another paragraph of this subsection, the landlord's duty shall be determined by reference to paragraph a of this subsection.

2. The landlord and tenant of a single family residence may agree in writing that the tenant perform the landlord's duties specified in paragraphs e and f of subsection one (1) and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith.

3. The landlord and tenant of a dwelling unit other than a single family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only:

a. If the agreement of the parties is entered into in good faith and is set forth in a separate writing signed by the parties and supported by adequate consideration;

b. If the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

4. The landlord shall not treat performance of the separate agreement described in subsection three (3) of this section as a condition to an obligation or performance of a rental agreement.

Sec. 16. NEW SECTION. LIMITATION OF LIABILITY.

1. Unless otherwise agreed, a landlord, who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser, is relieved of liability under the rental agreement and this Act as to events occurring subsequent to written notice to the tenant

of the conveyance.

2. A manager of premises that includes a dwelling unit is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the termination of his or her management.

ARTICLE III

TENANT OBLIGATIONS

Sec. 17. NEW SECTION. TENANT TO MAINTAIN DWELLING UNIT.

The tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety.

2. Keep that part of the premises that the tenant occupies and uses as clean and safe as the condition of the premises permit.

3. Dispose from the tenant's dwelling unit all ashes, rubbish, garbage, and other waste in a clean and safe manner.

4. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits.

5. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises.

6. Not deliberately or negligently destroy, deface, damage, impair or remove a part of the premises or knowingly permit a person to do so.

7. Conduct himself or herself in a manner that will not disturb a neighbor's peaceful enjoyment of the premises.

Sec. 18. NEW SECTION. RULES. A landlord, from time to time, may adopt rules, however described, concerning the tenant's use and occupancy of the premises. A rule is enforceable against the tenant only if it is written and if:

1. Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally.

2. It is reasonably related to the purpose for which it is adopted.

3. It applies to all tenants in the premises in a fair manner.

4. It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform the tenant of what the tenant must or must not do to comply.

5. It is not for the purpose of evading the obligations of the landlord.

6. The tenant has notice of it at the time the tenant enters into the rental agreement.

A rule adopted after the tenant enters into the rental agreement is enforceable against the tenant if reasonable notice of its adoption is given to the tenant and it does not work a substantial modification of the rental agreement.

Sec. 19. NEW SECTION. ACCESS.

1. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

2. The landlord may enter the dwelling unit without consent of the tenant in case of emergency.

3. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least twenty-four hours notice of the landlord's intent to enter and enter only at reasonable times.

4. The landlord does not have another right of access except by court order, and as permitted by sections twenty-eight (28) and twenty-nine (29) of this Act, or if the tenant has abandoned or surrendered the premises.

Sec. 20. NEW SECTION. TENANT TO USE AND OCCUPY. Unless otherwise agreed, the tenant shall occupy his or her dwelling unit only as a dwelling unit and uses incidental thereto. The rental agreement may require that the tenant notify the landlord of an anticipated extended absence from the premises not later than the first day of the extended absence.

ARTICLE IV

REMEDIES

Part I

TENANT REMEDIES

Sec. 21. NEW SECTION. NONCOMPLIANCE BY THE LANDLORD--
IN GENERAL.

1. Except as provided in this Act, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with section fifteen (15) of this Act materially affecting health and safety, the tenant may elect to commence an action under this section and shall deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement

will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate and the tenant shall surrender as provided in the notice subject to the following:

a. If the breach is remediable by repairs or the payment of damages or otherwise, and if the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.

b. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement unless the landlord has exercised due diligence and effort to remedy the breach which gave rise to the noncompliance.

c. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family, or other person on the premises with the tenant's consent.

2. Except as provided in this Act, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or section fifteen (15) of this Act unless the landlord demonstrates affirmatively that the landlord has exercised due diligence and effort to remedy any noncompliance, and that any failure by the landlord to remedy any noncompliance was due to circumstances reasonably beyond the control of the landlord. If the landlord's noncompliance is willful the tenant may recover reasonable attorney's fees.

3. The remedy provided in subsection two (2) of this section is in addition to any right of the tenant arising under subsection one (1) of this section.

4. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable by the tenant under section twelve (12) of this Act.

Sec. 22. NEW SECTION. FAILURE TO DELIVER POSSESSION.

1. If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in section fourteen (14) of this Act, rent abates until possession is delivered and the tenant shall:

a. Upon at least five days' written notice to the landlord, terminate the rental agreement and upon termination the land-

lord shall return all prepaid rent and security; or

b. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the dwelling unit against the landlord or a person wrongfully in possession and recover the damages sustained by the tenant.

2. If a landlord's failure to deliver possession is willful and not in good faith, a tenant may recover from the landlord the actual damages sustained by the tenant and reasonable attorney's fees.

Sec. 23. NEW SECTION. WRONGFUL FAILURE TO SUPPLY HEAT, WATER, HOT WATER OR ESSENTIAL SERVICES.

1. If contrary to the rental agreement or section fifteen (15) of this Act the landlord deliberately or negligently fails to supply running water, hot water, or heat, or essential services, the tenant may give written notice to the landlord specifying the breach and may:

a. Procure reasonable amounts of hot water, running water, heat and essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

b. Recover damages based upon the diminution in the fair rental value of the dwelling unit; or

c. Recover any rent already paid for the period of the landlord's noncompliance which shall be reimbursed on a pro rata basis.

2. If the tenant proceeds under this section, the tenant may not proceed under section twenty-one (21) of this Act as to that breach.

3. The rights under this section do not arise until the tenant has given notice to the landlord or if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with the consent of the tenant.

Sec. 24. NEW SECTION. LANDLORD'S NONCOMPLIANCE AS DEFENSE TO ACTION FOR POSSESSION OR RENT.

1. In an action for possession based upon nonpayment of the rent or in an action for rent where the tenant is in possession, the tenant may counterclaim for an amount which the tenant may recover under the rental agreement or this Act. In that event the court from time to time may order the tenant to pay into court all or part of the rent accrued and thereafter accruing, and shall determine the amount due to each party. The party to whom a net amount is owed shall

be paid first from the money paid into court, and the balance by the other party. If rent does not remain due after application of this section, judgment shall be entered for the tenant in the action for possession. If the defense or counterclaim by the tenant is without merit and is not raised in good faith the landlord may recover reasonable attorney's fees.

2. In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in subsection one (1) of this section, but the tenant is not required to pay any rent into court.

Sec. 25. NEW SECTION. FIRE OR CASUALTY DAMAGE.

1. If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that enjoyment of the dwelling unit is substantially impaired, the tenant may:

a. Immediately vacate the premises and notify the landlord in writing within fourteen days of the tenant's intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

b. If continued occupancy is lawful, vacate a part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

2. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable under section twelve (12) of this Act. Accounting for rent in the event of termination or apportionment is to occur as of the date of the casualty.

Sec. 26. NEW SECTION. TENANT'S REMEDIES FOR LANDLORD'S UNLAWFUL OUSTER, EXCLUSION, OR DIMINUTION OF SERVICE. If the landlord unlawfully removes or excludes the tenant from the premises or willfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover the actual damages sustained by the tenant and reasonable attorney's fees. If the rental agreement is terminated, the landlord shall return all prepaid rent and security.

Part II

LANDLORD REMEDIES

Sec. 27. NEW SECTION. NONCOMPLIANCE WITH RENTAL AGREEMENT--FAILURE TO PAY RENT.

1. Except as provided in this Act, if there is a material noncompliance by the tenant with the rental agreement or a noncompliance with section seventeen (17) of this Act materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days, and the rental agreement shall terminate as provided in the notice subject to the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate. If substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

2. If rent is unpaid when due and the tenant fails to pay rent within three days after written notice by the landlord of nonpayment and the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

3. Except as provided in this Act, the landlord may recover damages and obtain injunctive relief for noncompliance by the tenant with the rental agreement or section seventeen (17) of this Act unless the tenant demonstrates affirmatively that the tenant has exercised due diligence and effort to remedy any noncompliance, and that the tenant's failure to remedy any noncompliance was due to circumstances beyond the tenant's control. If the tenant's noncompliance is willful, the landlord may recover reasonable attorney's fees.

4. In any action by a landlord for possession based upon nonpayment of rent, proof by the tenant of the following shall be a defense to any action or claim for possession by the landlord, and the amounts expended by the claimant in correcting the deficiencies shall be deducted from the amount claimed by the landlord as unpaid rent:

a. That the landlord failed to comply either with the

rental agreement or with section fifteen (15) of this Act;
and

b. That the tenant notified the landlord at least fourteen days prior to the due date of the tenant's rent payment of the tenant's intention to correct the condition constituting the breach referred to in paragraph a of this subsection at the landlord's expense; and

c. That the reasonable cost of correcting the condition constituting the breach is equal to or less than one month's periodic rent; and

d. That the tenant in good faith caused the condition constituting the breach to be corrected prior to receipt of written notice of the landlord's intention to terminate the rental agreement for nonpayment of rent.

Sec. 28. NEW SECTION. FAILURE TO MAINTAIN. If there is noncompliance by the tenant with section seventeen (17) of this Act, materially affecting health and safety that can be remedied by repair or replacement of a damaged item or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the dwelling unit and cause the work to be done in a workmanlike manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value of it as rent on the next date when periodic rent is due, or if the rental agreement has terminated, for immediate payment.

Sec. 29. NEW SECTION. REMEDIES FOR ABSENCE, NONUSE AND ABANDONMENT.

1. If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence as provided in section twenty (20) of this Act, and the tenant willfully fails to do so, the landlord may recover actual damages from the tenant.

2. During an absence of the tenant in excess of fourteen days, the landlord may enter the dwelling unit at times reasonably necessary.

3. If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the dwelling unit for a term beginning prior to the expiration of the rental agreement, it is deemed to be terminated as of the date the new tenancy begins. The rental agreement is deemed to be terminated by

the landlord as of the date the landlord has notice of the abandonment, if the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental or if the landlord accepts the abandonment as a surrender. If the tenancy is from month-to-month, or week-to-week, the term of the rental agreement for this purpose shall be deemed to be a month or a week, as the case may be.

Sec. 30. NEW SECTION. WAIVER OF LANDLORD'S RIGHT TO TERMINATE. Acceptance of performance by the tenant that varies from the terms of the rental agreement or rules subsequently adopted by the landlord constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

Sec. 31. NEW SECTION. LANDLORD LIENS--DISTRESS FOR RENT.

1. A lien on behalf of the landlord on the tenant's household goods is not enforceable unless perfected before the effective date of this Act.

2. Distraint for rent is abolished.

Sec. 32. NEW SECTION. REMEDY AFTER TERMINATION. If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement and reasonable attorney's fees as provided in section twenty-seven (27) of this Act.

Sec. 33. NEW SECTION. RECOVERY OF POSSESSION LIMITED. A landlord may not recover or take possession of the dwelling unit by action or otherwise, including willful diminution of services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, except in case of abandonment, surrender, or as permitted in this Act.

Part III

PERIODIC TENANCY: HOLDOVER: ABUSE OF ACCESS

Sec. 34. NEW SECTION. PERIODIC TENANCY; HOLDOVER REMEDIES.

1. The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least ten days prior to the termination date specified in the notice.

2. The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty days prior to the periodic rental date specified in the notice.

3. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental

agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord, in addition, may recover the actual damages sustained by the landlord and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, subsection four (4) of section nine (9) of this Act applies.

Sec. 35. NEW SECTION. LANDLORD AND TENANT REMEDIES FOR ABUSE OF ACCESS.

1. If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover actual damages and reasonable attorney's fee.

2. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In either case, the tenant may recover actual damages not less than an amount equal to one month's rent and reasonable attorney's fees.

ARTICLE V

RETALIATORY ACTION

Sec. 36. NEW SECTION. RETALIATORY CONDUCT PROHIBITED.

1. Except as provided in this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after:

a. The tenant has complained to a governmental agency charged with responsibility for enforcement of a building or housing code of a violation applicable to the premises materially affecting health and safety;

b. The tenant has complained to the landlord of a violation under section fifteen (15) of this Act; or

c. The tenant has organized or become a member of a tenants' union or similar organization.

2. If the landlord acts in violation of subsection one (1) of this section, the tenant may recover from the landlord the actual damages sustained by the tenant and reasonable attorney's fees, and has a defense in action against the landlord for possession. In an action by or against the tenant, evidence of a good faith complaint within one year prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The

presumption does not arise if the tenant made the complaint after notice of a proposed rent increase or diminution of services. Evidence by the landlord that legitimate costs and charges of owning, maintaining or operating a dwelling unit have increased shall be a defense against the presumption of retaliation when a rent increase is commensurate with the increase in costs and charges. "Presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

3. Notwithstanding subsections one (1) and two (2) of this section, a landlord may bring an action for possession if:

a. The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in the tenant's household or upon the premises with his consent;

b. The tenant is in default in rent; or

c. Compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit. The maintenance of the action does not release the landlord from liability under subsection two (2) of section twenty-one (21) of this Act.

ARTICLE VI

EFFECTIVE DATE AND REPEALER

Sec. 37. This Act shall apply to rental agreements entered into or extended or renewed after the effective date of this Act.

Sec. 38. Sections five hundred sixty-two point eight (562.8) through five hundred sixty-two point sixteen (562.16), Code 1977, are repealed.

Sec. 39. Transactions entered into before the effective date of this Act, and not extended or renewed after that date, and the rights, duties, and interests flowing from them remain valid and may be terminated, completed, consummated, or enforced as required or permitted by any statute or other law amended or repealed by this Act as though the repeal or amendment had not occurred.

Sec. 40. If a provision of this Act or the application of it to a person or circumstances is held invalid, the invalidity does not affect other provisions or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of

this Act are severable.

Sec. 41. This Act is effective January 1, 1979.

Approved June 27, 1978

CHAPTER 1173

MOBILE HOME PARKS RESIDENTIAL LANDLORD AND TENANT LAW

H. F. 2135

AN ACT to establish a mobile home parks residential landlord and tenant Act and providing civil penalties.

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

DIVISION I

GENERAL PROVISIONS

Section 1. NEW SECTION. SHORT TITLE. This chapter shall be known and may be cited as the mobile home parks residential landlord and tenant Act.

Sec. 2. NEW SECTION. PURPOSES. Underlying purposes and policies of this chapter are:

1. To simplify, clarify and establish the law governing the rental of mobile home spaces and rights and obligations of landlord and tenant.
2. To encourage landlord and tenant to maintain and improve the quality of mobile home living.

Sec. 3. NEW SECTION. SUPPLEMENTARY PRINCIPLES OF LAW APPLICABLE. Unless displaced by the provisions of this Act, the principles of law and equity, including the law relating to capacity to contract, mutuality of obligations, principal and agent, real property, public health, safety and fire prevention, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy or other validating or invalidating cause supplement its provisions.

Sec. 4. NEW SECTION. ADMINISTRATION OF REMEDIES; ENFORCEMENT.

1. The remedies provided by this Act shall be so administered that the aggrieved party may recover appropriate damages. The aggrieved party has a duty to mitigate damages.

2. Any right or obligation declared by this Act is enforceable by action unless the provision declaring it specifies a different and limited effect.

Sec. 5. NEW SECTION. EXCLUSIONS FROM APPLICATION OF CHAPTER. The provisions of this Act shall not apply to an occupancy in or operation of public housing as authorized, provided or conducted pursuant to chapter four hundred three A (403A) of the Code, or pursuant to any federal law or regulation with which it might conflict.

Sec. 6. NEW SECTION. JURISDICTION AND SERVICE OF PROCESS.

1. The appropriate district court of this state may exercise jurisdiction over a landlord or tenant with respect to conduct in this state governed by this Act or with respect to any claim arising from a transaction subject to this Act. An action under this Act may be brought as a small claim pursuant to the provisions of chapter six hundred thirty-one (631) of the Code. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord or tenant may be acquired in a civil action or proceeding instituted in the appropriate district court by the service of process in the manner provided by this section.

2. If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in conduct in this state governed by this Act, or engages in a transaction subject to this Act, the landlord shall designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the secretary of state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the secretary of state, but the plaintiff or petitioner shall forthwith mail a copy of this process and pleading by certified mail, return receipt requested, to the defendant or respondent at that person's last reasonably ascertained address. If there is no last reasonably ascertainable address and if the defendant or respondent has not complied with section fourteen (14), subsections one (1) and two (2) of this Act, then service upon the secretary of state shall be sufficient service of process without the mailing of copies to the defendant or respondent. Service of process shall be deemed complete and the time shall begin to run for the purposes of this section at the time of service upon the secretary of state. The defendant shall appear and answer within thirty days after completion thereof in the manner and under the same penalty as if defendant had been personally served with the summons.

An affidavit of compliance with this section shall be filed with the clerk of the district court on or before the return day of the process, or within any further time the court allows.

Sec. 7. NEW SECTION. GENERAL DEFINITIONS. Subject to additional definitions contained in subsequent sections of this Act which apply to specific sections thereof, and unless the context otherwise requires, in this chapter:

1. "Building and housing codes" include any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any mobile home park, dwelling unit or mobile home space.

2. "Dwelling unit" excludes real property used to accommodate a mobile home.

3. "Landlord" means the owner, lessor or sublessor of a mobile home park and it also means a manager of the mobile home park who fails to disclose as required by section fourteen (14) of this Act.

4. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa.

5. "Mobile home space" means a parcel of land for rent which has been designed to accommodate a mobile home and provide the required sewer and utility connections.

6. "Business" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest and any other legal or commercial entity which is a landlord, owner, manager or constructive agent pursuant to section fourteen (14) of this Act.

7. "Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the mobile home park. The term includes a mortgagee in possession.

8. "Mobile home park" shall mean any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or

enclosure used or intended for use as part of the equipment of such mobile home park.

9. "Rent" means a payment to be made to the landlord under the rental agreement.

10. "Rental agreement" means agreements, written or those implied by law, and valid rules and regulations adopted under section nineteen (19) of this Act embodying the terms and conditions concerning the use and occupancy of a mobile home space.

11. "Rental deposit" means a deposit of money to secure performance of a mobile home space rental agreement under this chapter other than a deposit which is exclusively in advance payment of rent.

12. "Tenant" means a person entitled under a rental agreement to occupy a mobile home space to the exclusion of others.

Sec. 8. NEW SECTION. UNCONSCIONABILITY.

1. If the court, as a matter of law, finds that:

a. A rental agreement or any provision thereof was unconscionable when made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable provision, or limit the application of any unconscionable provision to avoid an unconscionable result.

b. A settlement in which a party waives or agrees to forego a claim or right under this chapter or under a rental agreement was unconscionable at the time it was made, the court may refuse to enforce the settlement, enforce the remainder of the settlement without the unconscionable provision, or limit the application of any unconscionable provision to avoid any unconscionable result.

2. If unconscionability is put into issue by a party or by the court upon its own motion the parties shall be afforded a reasonable opportunity to present evidence as to the setting, purpose and effect of the rental agreement or settlement to aid the court in making the determination.

Sec. 9. NEW SECTION. NOTICE.

1. A person has notice of a fact if that person has actual knowledge of it, has received a notice or notification of it or, from all the facts and circumstances known to that person at the time in question, has reason to know that it exists. A person "knows" or "has knowledge" of a fact if that person has actual knowledge of it.

2. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform

the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when it comes to that person's attention, or in the case of the landlord, it is delivered in hand or mailed by registered mail to the place of business of the landlord through which the rental agreement was made or at any place held out by the landlord as the place for receipt of the communication or delivered to any individual who is designated as an agent by section fourteen (14) of this Act or, in the case of the tenant, it is delivered in hand to the tenant or mailed by registered mail return receipt requested to the tenant at the place held out by the tenant as the place for receipt of the communication or, in the absence of such designation, to the tenant's last known place of residence other than the landlord's mobile home or space.

3. "Notice", knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the individual conducting the transaction and in any event from the time it would have been brought to that person's attention if the organization had exercised reasonable diligence, but such knowledge shall be subject to proof.

Sec. 10. NEW SECTION. TERMS AND CONDITIONS OF RENTAL AGREEMENT.

1. The landlord and tenant may include in a rental agreement terms and conditions not prohibited by this Act or other rule of law including rent, term of the agreement and other provisions governing the rights and obligations of the parties.

2. The tenant shall pay as rent the amount stated in the rental agreement. In the absence of a rental agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the mobile home space.

3. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed periodic rent is payable at the beginning of any term and thereafter in equal monthly installments. Rent shall be uniformly apportionable from day to day.

4. Rental agreements shall be for a term of one year unless otherwise specified in the rental agreement. Rental agreements shall be canceled by at least sixty days written notice given by either party. A landlord shall not cancel a rental agreement solely for the purpose of making the tenant's mobile home space available for another mobile home.

5. If a tenant should die, the surviving joint tenant or tenant in common in the mobile home shall continue as tenant with all rights, privileges and liabilities as the original tenant.

6. If a tenant who was sole owner of a mobile home dies during the term of a rental agreement then that person's heirs or legal representative or the landlord shall have the right to cancel the tenant's lease by giving sixty days written notice to the person's heirs or legal representative or to the landlord, whichever is appropriate, and the heirs or the legal representative shall have the same rights, privileges and liabilities of the original tenant.

7. Improvements, except a natural lawn, purchased and installed by a tenant on a mobile home space shall remain the property of the tenant even though affixed to or in the ground and may be removed or disposed of by the tenant prior to the termination of the tenancy, provided that a tenant shall leave the mobile home space in substantially the same or better condition than upon taking possession.

Sec. 11. NEW SECTION. PROHIBITED PROVISIONS IN RENTAL AGREEMENTS.

1. A rental agreement shall not provide that the tenant or landlord does any of the following:

a. Agrees to waive or to forego rights or remedies under this chapter.

b. Agrees to pay the other party's attorney fees.

c. Agrees to the exculpation or limitation of any liability of the other party arising under law or to indemnify the other party for that liability or the costs connected therewith.

d. Agrees to a designated agent for the sale of tenant's mobile home.

2. A provision prohibited by subsection one (1) of this section included in a rental agreement is unenforceable.

If a landlord or tenant knowingly uses a rental agreement containing provisions known to be prohibited by this Act, the other party may recover actual damages sustained.

Nothing in this Act shall prohibit a rental agreement from requiring a tenant to maintain liability insurance which names the landlord as an insured as relates to the mobile home space rented by the tenant.

Sec. 12. NEW SECTION. SEPARATION OF RENTS AND OBLIGATIONS TO MAINTAIN PROPERTY FORBIDDEN. A rental agreement, assignment, conveyance, trust deed or security instrument shall not permit the receipt of rent, unless the landlord

has agreed to comply with section sixteen (16), subsection one (1) of this Act.

DIVISION II

LANDLORD OBLIGATIONS

Sec. 13. NEW SECTION. RENTAL DEPOSITS.

1. A landlord shall not demand or receive as rental deposit an amount or value in excess of two months' rent.

2. All rental deposits shall be held by the landlord for the tenant, who is a party to the agreement, in a bank, credit union or savings and loan association which is insured by an agency of the federal government. Rental deposits shall not be commingled with the personal funds of the landlord. All rental deposits may be held in a trust account, which may be a common trust account and which may be an interest bearing account. Any interest earned on a rental deposit shall be the property of the landlord.

3. A landlord shall, within thirty days from the date of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return the rental deposit to the tenant or furnish to the tenant a written statement showing the specific reason for withholding of the rental deposit or any portion thereof. If the rental deposit or any portion of the rental deposit is withheld for the restoration of the mobile home space, the statement shall specify the nature of the damages. The landlord may withhold from the rental deposit only such amounts as are reasonably necessary for the following reasons:

a. To remedy a tenant's default in the payment of rent or of other funds due to the landlord pursuant to the rental agreement.

b. To restore the mobile home space to its condition at the commencement of the tenancy, ordinary wear and tear excepted.

4. In an action concerning the rental deposit, the burden of proving, by a preponderance of the evidence, the reason for withholding all or any portion of the rental deposit shall be on the landlord.

5. A landlord who fails to provide a written statement within thirty days of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions shall forfeit all rights to withhold any portion of the rental deposit. If no mailing address or instructions are provided to the landlord within one year from the termination of the tenancy the rental deposit shall revert to the landlord and

the tenant will be deemed to have forfeited all rights to the rental deposit.

6. Upon termination of a landlord's interest in the mobile home park, the landlord or his or her agent shall, within a reasonable time, transfer the rental deposit, or any remainder after any lawful deductions to the landlord's successor in interest and notify the tenant of the transfer and of the transferee's name and address or return the deposit, or any remainder after any lawful deductions to the tenant.

Upon the termination of the landlord's interest in the mobile home park and compliance with the provisions of this subsection, the landlord shall be relieved of any further liability with respect to the rental deposit.

7. Upon termination of the landlord's interest in the mobile home park, the landlord's successor in interest shall have all the rights and obligations of the landlord with respect to the rental deposits, except that if the tenant does not object to the stated amount within twenty days after written notice to the tenant of the amount of rental deposit being transferred or assumed, the obligations of the landlord's successor to return the deposit shall be limited to the amount contained in the notice. The notice shall contain a stamped envelope addressed to the landlord's successor and may be given by mail or by personal service.

8. The bad faith retention of a deposit by a landlord, or any portion of the rental deposit, in violation of this section shall subject the landlord to punitive damages not to exceed two hundred dollars in addition to actual damages.

Sec. 14. NEW SECTION. DISCLOSURE AND TENDER OF WRITTEN RENTAL AGREEMENT.

1. The landlord shall offer the tenant the opportunity to sign a written agreement for a mobile home space.

2. The landlord or any person authorized to enter into a rental agreement on his or her behalf shall disclose to the tenant in writing at or before entering into the rental agreement the name and address of:

- a. The person authorized to manage the mobile home park.
- b. The owner of the mobile home park or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

3. The information required to be furnished by this section shall be kept current and refurnished to the tenant upon the tenant's request. When there is a new owner or operator this

section extends to and is enforceable against any successor landlord, owner or manager.

4. A person who fails to comply with subsections one (1) and two (2) becomes an agent of each person who is a landlord for the following purposes:

a. Service of process and receiving and receipting for notices and demands.

b. Performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the mobile home park.

5. If there is a written rental agreement, the landlord must tender and deliver a signed copy of the rental agreement to the tenant and the tenant must sign and deliver to the landlord one fully executed copy of such rental agreement within ten days after the agreement is executed. Noncompliance with this subsection shall be deemed a material noncompliance by the landlord or the tenant, as the case may be, of the rental agreement.

6. The landlord or any person authorized to enter into a rental agreement on the landlord's behalf shall provide a written explanation of utility rates, charges and services to the prospective tenant before the rental agreement is signed unless the utility charges are paid by the tenant directly to the utility company.

7. Each tenant shall be notified, in writing, of any rent increase at least sixty days before the effective date. Such effective date shall not be sooner than the expiration date of the original rental agreement or any renewal or extension thereof.

Sec. 15. NEW SECTION. LANDLORD TO DELIVER POSSESSION OF MOBILE HOME SPACE. At the commencement of the term the landlord shall deliver possession of the mobile home space to the tenant in compliance with the rental agreement and section sixteen (16) of this Act. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in section thirty-one (31) of this Act.

Sec. 16. NEW SECTION. LANDLORD TO MAINTAIN FIT PREMISES.

1. The landlord shall:

a. Comply with the requirements of all applicable city, county and state codes materially affecting health and safety which are primarily imposed upon the landlord.

b. Make all repairs and do whatever is necessary to put

and keep the mobile home space in a fit and habitable condition.

c. Keep all common areas of the mobile home park in a clean and safe condition.

d. Maintain in good and safe working order and condition all facilities supplied or required to be supplied by the landlord.

e. Provide for removal of garbage, rubbish, and other waste from the mobile home park.

f. Furnish outlets for electric, water and sewer services.

2. A landlord shall not impose any conditions of rental or occupancy which restrict the tenant in the choice of a seller of fuel, furnishings, goods, services or mobile homes connected with the rental or occupancy of a mobile home space unless such condition is necessary to protect the health, safety, aesthetic value or welfare of mobile home tenants in the park. The landlord may impose reasonable requirements designed to standardize methods of utility connection and hookup. If any such conditions are imposed which result in charges for such goods or services, the charges shall not exceed the actual cost incurred in providing the tenant with such goods or services.

Sec. 17. NEW SECTION. LIMITATION OF LIABILITY.

1. A landlord who conveys a mobile home park in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this Act as to events occurring subsequent to written notice to the tenant of the conveyance.

2. A manager of a mobile home park is relieved of liability under the rental agreement and this Act as to events occurring after written notice to the tenant of the termination of his management, except such notice shall not terminate any agreement or legal liability arising prior to the notice.

DIVISION III

TENANT OBLIGATIONS

Sec. 18. NEW SECTION. TENANT TO MAINTAIN MOBILE HOME SPACE--NOTICE OF VACATING. A tenant shall maintain his or her mobile home space in as good a condition as when the tenant took possession and shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of city, county and state codes materially affecting health and safety.

2. Keep that part of the mobile home park that the tenant occupies and uses reasonably clean and safe.

3. Dispose from the tenant's mobile home space all rubbish,

garbage and other waste in a clean and safe manner.

4. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the mobile home park or knowingly permit any person to do so.

5. Conduct himself or herself and require other persons in the mobile home park with his or her consent to conduct themselves in a manner that will not disturb the tenant's neighbors' peaceful enjoyment of the mobile home park.

Sec. 19. NEW SECTION. RULES AND REGULATIONS.

1. A landlord may adopt rules or regulations, however described, concerning the tenant's use and occupancy of the mobile home park. Such rules or regulations are enforceable against the tenant only if they are written and if:

a. Their purpose is to promote the convenience, safety or welfare of the tenants in the mobile home park, to preserve the landlord's property from abuse, to make a fair distribution of services and facilities held out for the tenants generally, or to facilitate mobile home park management.

b. They are reasonably related to the purpose for which adopted.

c. They apply to all tenants in the mobile home park in a fair manner.

d. They are sufficiently explicit in prohibition, direction or limitation of the tenant's conduct to fairly inform that person of what must or must not be done to comply.

e. They are not for the purpose of evading the obligations of the landlord.

f. The prospective tenant is given a copy of them before the rental agreement is entered into.

2. Notice of all such additions, changes, deletions or amendments shall be given to all mobile home tenants thirty days before they become effective. Any rule or condition of occupancy which is unfair and deceptive or which does not conform to the requirements of this chapter shall be unenforceable. A rule or regulation adopted after the tenant enters into the rental agreement is enforceable against the tenant only if it does not work a substantial modification of that person's rental agreement.

3. A landlord shall not:

a. Deny rental unless the tenant or prospective tenant cannot conform to park rules and regulations.

b. Require any person as a precondition to renting, leasing or otherwise occupying or removing from a mobile home space in a mobile home park to pay an entrance or exit fee of any

kind unless for services actually rendered or pursuant to a written agreement.

c. Deny any resident of a mobile home park the right to sell that person's mobile home at a price of his or her own choosing, but may reserve the right to approve the purchaser of such mobile home as a tenant but such permission may not be unreasonably withheld, provided however, that the landlord may, in the event of a sale to a third party, in order to upgrade the quality of the mobile home park, require that any mobile home in a rundown condition or in disrepair be removed from the park within sixty days.

d. Exact a commission or fee with respect to the price realized by the tenant selling the tenant's mobile home, unless the park owner or operator has acted as agent for the mobile home owner pursuant to a written agreement.

e. Require tenant to furnish permanent improvements which cannot be removed without damage thereto or to the mobile home space by tenant at expiration of the rental agreement.

f. Prohibit meetings between tenants in the mobile home park relating to mobile home living and affairs in the park community or recreational hall if such meetings are held at reasonable hours and when the facility is not otherwise in use.

Sec. 20. NEW SECTION. ACCESS.

1. A landlord shall not have the right of access to a mobile home owned by a tenant unless such access is necessary to prevent damage to the mobile home space or is in response to an emergency situation.

2. The landlord may enter onto the mobile home space in order to inspect the mobile home space, make necessary or agreed repairs or improvements, supply necessary or agreed services or exhibit the mobile home space to prospective or actual purchasers, mortgagees, tenants, workers or contractors.

Sec. 21. NEW SECTION. TENANT TO OCCUPY AS A DWELLING UNIT--AUTHORITY TO SUBLET. The tenant shall occupy the tenant's mobile home only as a dwelling unit and may rent the mobile home to another, only upon written agreement with the park management.

DIVISION IV

REMEDIES

Sec. 22. NEW SECTION. NONCOMPLIANCE BY THE LANDLORD.

1. Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement, the tenant may deliver a written notice to the landlord

specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the landlord with section sixteen (16) of this Act materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. The rental agreement shall terminate and the mobile home space shall be vacated as provided in the notice subject to the following:

a. If the breach is remediable by repairs or the payment of damages or otherwise and the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate.

b. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of the tenant's family or other person in the mobile home park with the tenant's consent.

2. Except as provided in this chapter, the tenant may recover damages, and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or with section sixteen (16) of this Act.

3. The remedy provided in subsection two (2) of this section is in addition to any right of the tenant arising under subsection one (1) of this section.

Sec. 23. NEW SECTION. FAILURE TO DELIVER POSSESSION.

1. If the landlord fails to deliver physical possession of the mobile home space to the tenant as provided in section fifteen (15) of this Act, rent abates until possession is delivered and the tenant may do either of the following:

a. Upon written notice to the landlord, terminate the rental agreement and at that time the landlord shall return all deposits.

b. Demand performance of the rental agreement by the landlord and, if the tenant elects, maintain an action for possession of the mobile home space against the landlord and recover the damages sustained by the tenant plus reasonable attorney's fees and court costs.

2. If the landlord delivers physical possession to the tenant but fails to comply with section sixteen (16) of this Act at the time of delivery, rent shall not abate. The tenant

may also proceed with the remedies provided for in section twenty-two (22) of this Act.

Sec. 24. NEW SECTION. TENANT'S REMEDIES FOR LANDLORD'S UNLAWFUL OUSTER, EXCLUSION OR DIMINUTION OF SERVICES. If the landlord unlawfully removes or excludes the tenant from the mobile home park or willfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water or other essential service to the tenant, the tenant may recover possession, require the restoration of essential services or terminate the rental agreement and, in either case, recover an amount not to exceed two months' periodic rent and twice the actual damages sustained by the tenant.

Sec. 25. NEW SECTION. NONCOMPLIANCE WITH RENTAL AGREEMENT BY TENANT--FAILURE TO PAY RENT.

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the tenant with section eighteen (18) of this Act materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. However, if the breach is remediable by repair or the payment of damages or otherwise, and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate.

2. If rent is unpaid when due and the tenant fails to pay rent within three days after written notice by the landlord of nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid within that period of time, the landlord may terminate the rental agreement.

3. Except as otherwise provided in this chapter, the landlord may recover damages, obtain injunctive relief or recover possession of the mobile home space pursuant to an action in forcible detainer for any material noncompliance by the tenant with the rental agreement or with section eighteen (18) of this Act.

4. The remedy provided in subsection three (3) of this section is in addition to any right of the landlord arising under subsection one (1) of this section.

Sec. 26. NEW SECTION. FAILURE TO MAINTAIN BY TENANT. If there is noncompliance by the tenant with section eighteen (18) of this Act materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy it within that period of time, the landlord may enter the mobile home space, and cause the work to be done in a workmanlike manner and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value thereof as additional rent on the next date when periodic rent is due, or if the rental agreement was terminated, for immediate payment.

Sec. 27. NEW SECTION. REMEDIES FOR ABANDONMENT--REQUIRED REGISTRATION.

1. If a tenant abandons a mobile home on a mobile home space, the landlord shall notify the legal owner or lienholder of the mobile home within a reasonable time and communicate to that person his or her liability for any costs incurred for the mobile home space for such mobile home, including rent and utilities due and owing. Any and all costs shall then become the responsibility of the legal owner or lienholder of the mobile home. The mobile home may not be removed from the mobile home space without a signed written agreement from the landlord showing clearance for removal, showing all moneys due and owing paid in full, or an agreement reached with the legal owner and the landlord.

2. A required standardized registration form shall be filled out by each tenant, upon the rental of a mobile home space, showing the mobile home make, year, serial number and license number and also showing if the mobile home is paid for, if there is a lien on the mobile home, and if so the lienholder, and who is the legal owner of the mobile home. The registration cards or forms shall be kept on file with the landlord as long as the mobile home is on the mobile home space within the mobile home park. The tenant shall give notice to the landlord within ten days of any new lien, changes of existing lien or settlement of lien.

Sec. 28. NEW SECTION. WAIVER OF LANDLORD'S RIGHT TO TERMINATE. Acceptance of performance by the tenant that varied

from the terms of the rental agreement or rules subsequently adopted by the landlord constitutes a waiver of the landlord's right to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred.

Sec. 29. NEW SECTION. LANDLORD LIENS. A lien on behalf of the landlord on the tenant's personal property is not enforceable unless perfected before the effective date of this Act.

Sec. 30. NEW SECTION. PERIODIC TENANCY--HOLDOVER REMEDIES.

1. The landlord may terminate a tenancy only as provided in this chapter.

2. Notwithstanding section six hundred forty-eight point nineteen (648.19) of the Code, if the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and recover actual damages. If the tenant's holdover is willful and not in good faith the landlord in addition may recover an amount not to exceed two months' periodic rent and twice the actual damages sustained by the landlord. In any event, the landlord may recover reasonable attorney's fees and court costs.

Sec. 31. NEW SECTION. LANDLORD AND TENANT REMEDIES FOR ABUSE OF ACCESS TO MOBILE HOME SPACE.

1. If the tenant refuses to allow lawful access to the mobile home space, the landlord may terminate the rental agreement and may recover actual damages.

2. If the landlord makes an unlawful entry or a lawful entry to the mobile home space in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case, the tenant may recover actual damages not less than an amount equal to one month's rent plus attorney's fees.

Sec. 32. NEW SECTION. RETALIATORY CONDUCT PROHIBITED.

1. Except as provided in this section, a landlord shall not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession or by failing to renew a rental agreement after any of the following:

a. The tenant has complained to a governmental agency charged with responsibility for enforcement of a building

or housing code of a violation applicable to the mobile home park materially affecting health and safety. For this subsection to apply, a complaint filed with a governmental body must be in good faith.

b. The tenant has complained to the landlord of a violation under section sixteen (16) of this Act.

c. The tenant has organized or become a member of a tenant's union or similar organization.

d. For exercising any of the rights and remedies pursuant to this Act.

2. If the landlord acts in violation of subsection one (1) of this section, the tenant is entitled to the remedies provided in section twenty-five (25) of this Act and has a defense in an action for possession. In an action by or against the tenant, evidence of a complaint within six months prior to the alleged act of retaliation creates a presumption that the landlord's conduct was in retaliation. The presumption does not arise if the tenant made the complaint after notice of termination of the rental agreement. For the purpose of this subsection, "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

3. Notwithstanding subsections one (1) and two (2) of this section, a landlord may bring an action for possession if either of the following occurs:

a. The violation of the applicable building or housing code was caused primarily by lack of reasonable care by the tenant or other person in the household or upon the premises with the tenant's consent.

b. The tenant is in default of rent three days after rent is due. The maintenance of the action does not release the landlord from liability under section twenty-two (22), subsection two (2) of this Act.

Sec. 33. Section one hundred thirty-five D point one (135D.1), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. "Modular home" means a factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

Sec. 34. Section one hundred thirty-five D point one (135D.1), subsection two (2), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. A mobile home park must be classified as to whether it is a residential mobile home park or a recreational mobile park or both. Sections one hundred thirty-five D point fourteen (135D.14) and one hundred thirty-five D point fifteen (135D.15) of the Code shall apply only to recreational mobile home parks. The mobile home park residential landlord tenant Act shall only apply to residential mobile home parks.

Sec. 35. Section one hundred thirty-five D point fourteen (135D.14), Code 1977, is amended to read as follows:

135D.14 PARKS OWNED BY PUBLIC. Any mobile home park owned and operated by any municipality shall meet all provisions of this chapter. Any recreational mobile home park owned or operated by any agency or department of the state, county, city or any nonprofit corporation within which the length of stay is limited to not more than fourteen consecutive days shall not be affected by any provision of this chapter except that such parks shall be subject to routine inspection by the state health department or a designee thereof. Upon routine inspections by the state health department or its designee, the inspecting officer shall make a report of his findings and recommendations in writing and submit such report to the agency or department of the state responsible for operation of the park.

Sec. 36. Section one hundred thirty-five D point twenty-four (135D.24), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. A modular home as defined by this chapter shall not be subject to or assessed the semiannual tax pursuant to this section, but shall be assessed and taxed as real estate pursuant to chapter four hundred twenty-seven (427) of the Code.

Sec. 37. Chapter one hundred thirty-five D (135D), Code 1977, is amended by adding the following new section:

NEW SECTION. MODULAR HOME EXEMPTION. For the purposes of this chapter a modular home shall not be construed to be a mobile home and shall be exempt from the provisions of this chapter. This section shall not prohibit the location of a modular home within a mobile home park.

Sec. 38. This Act is effective January 1, 1979.

Approved June 26, 1978

CHAPTER 1174

WEAPONS

S. F. 2213

AN ACT amending the weapons chapter of the criminal code revision to authorize a peace officer to go armed anywhere in the state at all times when he or she obtains a professional permit to carry weapons, to forbid a convicted felon to obtain a permit to carry weapons, to eliminate the need for a seller who is a federal firearm licensee to report sales or transfers of ownership of revolvers or pistols to other federal firearm licensees, to eliminate the need for a federal firearm licensee to obtain a permit to purchase a pistol or revolver, to eliminate the need for anyone to obtain a permit to purchase an antique firearm, and to forbid making a pistol or revolver available to a person under twenty-one.

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

Section 1. Section seven hundred twenty-four point one (724.1), Code 1977 Supplement, is amended by striking subsection two (2).

Sec. 2. Section seven hundred twenty-four point one (724.1), Code 1977 Supplement, is amended by adding the following new subsections:

NEW SUBSECTION. A short-barreled rifle or short-barreled shotgun. A short-barreled rifle or short-barreled shotgun is a rifle with a barrel or barrels less than sixteen inches in length or a shotgun with a barrel or barrels less than eighteen inches in length, as measured from the face of the closed bolt or standing breech to the muzzle, or any rifle or shotgun with an overall length less than twenty-six inches.

NEW SUBSECTION. An offensive weapon or part or combination of parts therefor shall not include the following:

a. An antique firearm. An antique firearm is any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898 or any firearm which is a replica of such a firearm if such replica is not designed or redesigned for using conventional rimfire or centerfire ammunition or which uses only rimfire or centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

b. A collector's item. A collector's item is any firearm other than a machine gun that by reason of its date of manufacture, value, design, and other characteristics is not

likely to be used as a weapon. The commissioner of public safety shall designate by rule firearms which he or she determines to be collector's items and shall revise or update the list of firearms at least annually.

c. Any device which is not designed or redesigned for use as a weapon; any device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device; or any firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition.

Sec. 3. Section seven hundred twenty-four point four (724.4), subsection seven (7), Code 1977 Supplement, is amended to read as follows:

7. Any person while he or she is lawfully engaged in target practice on a range designed for that purpose or while actually engaged in lawful hunting ~~for game in any place designated by local law as a hunting area.~~

Sec. 4. Section seven hundred twenty-four point six (724.6), Code 1977 Supplement, is amended to read as follows:

724.6 PROFESSIONAL PERMIT TO CARRY WEAPONS. A person may be issued a permit to carry weapons when the person's employment as a peace officer, correctional officer, security guard, private detective licensed under chapter 80A, bank messenger or other person transporting property of a value requiring security, or in police work, reasonably justifies that person going armed. Such permits shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder thereof, and shall state the nature of the employment requiring his or her going armed. A permit so issued, other than to a peace officer, shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in such employment, and while going to and from the place of such employment. A permit issued to a certified peace officer shall authorize that peace officer to go armed anywhere in the state at all times. Any such permit shall expire twelve months after the date when issued. When such employment is terminated, the holder of such permit shall surrender his or her permit to the issuing officer for cancellation.

Sec. 5. Section seven hundred twenty-four point eight (724.8), subsections two (2) and five (5), Code 1977 Supplement, is amended to read as follows:

2. The person has never been convicted of a ~~forcible~~ felony.

5. The issuing officer reasonably determines ~~from competent evidence~~ that the applicant does not constitute a danger to any person.

Sec. 6. Section seven hundred twenty-four point ten (724.10), Code 1977 Supplement, is amended to read as follows:

724.10 APPLICATION FOR PERMIT TO CARRY WEAPONS. No person shall be issued a permit to carry weapons unless the person has completed and signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall state the full name, social security number (optional), residence, and age of the applicant, and shall state whether the applicant has ever been convicted of a felony, whether the person is addicted to the use of alcohol or any controlled substance, and whether the person has any history of mental illness or repeated acts of violence. Any person who knowingly makes a false statement on such application commits an aggravated misdemeanor.

Sec. 7. Section seven hundred twenty-four point eleven (724.11), Code 1977 Supplement, is amended to read as follows:

724.11 ISSUANCE OF PERMIT TO CARRY WEAPONS. Applications for permits to carry weapons shall be made to the sheriff of the county in which the applicant resides. Applications from persons who are nonresidents of the state, or whose need to go armed arises out of employment by the state, shall be made to the commissioner of public safety. In either case, the issuance of the permit shall be by and at the discretion of the sheriff or commissioner, who shall, before issuing the permit, determine that the requirements of sections 724.6 through 724.10, inclusive, have been satisfied. However, the training program requirements in section 724.9 may be waived for renewal permits. The issuing officer shall collect a fee of five dollars, except from a duly appointed peace officer or correctional officer, for each permit issued. Renewal permits or duplicate permits shall be issued for a fee of two dollars. The issuing officer shall notify the commissioner of public safety of the issuance of any permit at least monthly and forward to the commissioner an amount equal to two dollars for each permit issued and one dollar for each renewal or duplicate permit issued. All such fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the

department of public safety to offset the cost of administering this chapter. Any unspent balance as of June thirtieth of each year shall revert to the general fund as provided by section 8.33.

Sec. 8. Section seven hundred twenty-four point fifteen (724.15), Code 1977 Supplement, is amended by striking the section and inserting in lieu thereof the following:

724.15 ANNUAL PERMIT TO ACQUIRE PISTOLS OR REVOLVERS.

1. Any person who acquires ownership of any pistol or revolver shall first obtain an annual permit. An annual permit shall not be issued to any person unless:
 - a. The person is twenty-one years of age or older.
 - b. The person has never been convicted of a felony.
 - c. The person is not addicted to the use of alcohol or a controlled substance.
 - d. The person has no history of repeated acts of violence.
 - e. The person has never been convicted of a crime defined in chapter seven hundred eight (708) of the Code, except "assault" as defined in section seven hundred eight point one (708.1) of the Code and "harrassment" as defined in section seven hundred eight point seven (708.7) of the Code.
 - f. The person has never been adjudged mentally defective.
2. Any person who acquires ownership of a pistol or revolver shall not be required to obtain an annual permit if:
 - a. The person transferring the pistol or revolver and the person acquiring the pistol or revolver are licensed firearms dealers under federal law;
 - b. The pistol or revolver acquired is an antique firearm, a collector's item, a device which is not designed or redesigned for use as a weapon, a device which is designed solely for use as a signaling, pyrotechnic, line-throwing, safety, or similar device, or a firearm which is unserviceable by reason of being unable to discharge a shot by means of an explosive and is incapable of being readily restored to a firing condition; or
 - c. The person acquiring the pistol or revolver is authorized to do so on behalf of a law enforcement agency.
3. The annual permit to acquire pistols or revolvers shall authorize the permit holder to acquire one or more pistols or revolvers during the period that the permit remains valid. If the issuing officer determines that the applicant has become disqualified under the provisions of subsection one

(1) of this section, he or she may immediately invalidate the permit.

Sec. 9. Section seven hundred twenty-four point sixteen (724.16), Code 1977 Supplement, is amended to read as follows:

724.16 ANNUAL PERMIT TO PURCHASE ACQUIRE REQUIRED. Any person who purchases acquires ownership of a pistol or revolver without a valid annual permit to purchase acquire pistols or revolvers or any person who ~~sells~~ transfers ownership of a pistol or revolver to a person who does not have in his or her possession a valid annual permit to purchase acquire pistols or revolvers is guilty of a simple misdemeanor.

Sec. 10. Section seven hundred twenty-four point seventeen (724.17), Code 1977 Supplement, is amended to read as follows:

724.17 APPLICATION FOR ANNUAL PERMIT TO PURCHASE ACQUIRE. The application for a an annual permit to purchase acquire pistols or revolvers may be made to the sheriff of any the county of the applicant's residence and shall be on a form prescribed and published by the commissioner of public safety. The application shall state the full name of the applicant, the social security number of the applicant, the residence of the applicant, and the age of the applicant.

Sec. 11. Section seven hundred twenty-four point eighteen (724.18), Code 1977 Supplement, is amended to read as follows:

724.18 ~~MAILING-OF~~ PROCEDURE FOR MAKING APPLICATION FOR ANNUAL PERMIT TO PURCHASE ACQUIRE. A person may ~~by-mail-or~~ personally request the sheriff to mail an application for a an annual permit to purchase acquire pistols or revolvers, and the sheriff shall immediately forward to such person an application for a an annual permit to purchase acquire pistols or revolvers. A person ~~may~~ shall upon completion of the application ~~mail~~ personally deliver such application to the sheriff who shall note the period of validity on the application and shall immediately ~~forward~~ issue the annual permit to purchase acquire pistols or revolvers to the applicant. For the purposes of this section the date of application shall be the date on which the sheriff received the completed application.

Sec. 12. Section seven hundred twenty-four point nineteen (724.19), Code 1977 Supplement, is amended to read as follows:

724.19 ISSUANCE OF ANNUAL PERMIT TO PURCHASE ACQUIRE. The annual permit to purchase acquire pistols or revolvers shall be issued to the applicant immediately upon completion of the application unless the applicant is disqualified under

the provisions of section seven hundred twenty-four point fifteen (724.15) of the Code and shall be on a form prescribed and published by the commissioner of public safety. The permit shall contain the name of the permittee, the social security number of the permittee, the residence of the permittee, and the effective date of the permit.

Sec. 13. The headnote of section seven hundred twenty-four point twenty (724.20), Code 1977 Supplement, is amended to read as follows:

724.20 VALIDITY OF ANNUAL PERMIT TO PURCHASE ACQUIRE PISTOLS OR REVOLVERS.

Sec. 14. Section seven hundred twenty-four point twenty-one (724.21), Code 1977 Supplement, is amended to read as follows:

724.21 GIVING FALSE INFORMATION WHEN PURCHASING ACQUIRING WEAPON. A person who gives a false name or presents false identification, or otherwise gives false information to one from whom the person seeks to purchase acquire a pistol or revolver, commits an aggravated misdemeanor.

Sec. 15. Section seven hundred twenty-four point twenty-two (724.22), Code 1977 Supplement, is amended by striking the section and inserting in lieu thereof the following:

724.22 SALE TO MINORS.

1. Except as provided in subsection three (3) of this section, a person who sells, loans, gives, or makes available a rifle or shotgun or ammunition for a rifle or shotgun to a minor commits a simple misdemeanor.

2. Except as provided in subsection four (4) and five (5) of this section, a person who sells, loans, gives, or makes available a pistol or revolver or ammunition for a pistol or revolver to a person below the age of twenty-one commits a simple misdemeanor.

3. A parent, guardian, spouse who is eighteen years of age or older, or another with the express consent of the minor's parent or guardian or spouse who is eighteen years of age or older may allow a minor to possess a rifle or shotgun or the ammunition therefor which may be lawfully used.

4. A person eighteen, nineteen, or twenty years of age may possess a firearm and the ammunition therefor while on military duty or while a peace officer, security guard or correctional officer, when such duty requires the possession of such a weapon or while the person receives instruction in the proper use thereof from an instructor who is twenty-one years of age or older.

5. A parent or guardian or spouse who is twenty-one years of age or older, of a person fourteen years of age but less than twenty-one may allow the person to possess a pistol or revolver or the ammunition therefor for any lawful purpose while under the direct supervision of the parent or guardian or spouse who is twenty-one years of age or older, or while the person receives instruction in the proper use thereof from an instructor twenty-one years of age or older, with the consent of such parent, guardian or spouse.

6. For the purposes of this section, caliber twenty-two (.22) rimfire ammunition shall be deemed to be rifle ammunition.

Sec. 16. Section seven hundred twenty-four point twenty-four (724.24), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

A resident of Iowa not otherwise precluded by applicable law, may purchase ~~firearms~~, rifles, shotguns, ammunition, reloading components, or firearms accessories in states contiguous to Iowa. This authorization is enacted in conformance with the Gun Control Act of 1968, 18 U.S.C., section 922 (b) (3) (A). In the event that presently enacted federal restrictions on the purchase of firearms, rifles, shotguns, ammunition, reloading components, or firearms accessories are repealed or set aside by courts of competent jurisdiction, this section shall in no way be interpreted to prohibit or restrict the purchase of firearms, shotguns, rifles, ammunition, reloading components, or firearms accessories by residents of Iowa otherwise competent to purchase the same in contiguous or other states.

Sec. 17. Section seven hundred twenty-four point twenty-five (724.25), Code 1977 Supplement, is amended to read as follows:

724.25 FELONY AND ANTIQUE FIREARM DEFINED.

1. As used in ~~section~~ sections seven hundred twenty-four point eight (724.8), subsection two (2) of the Code Supplement, and 724.26, the word "felony" means any offense punishable in the jurisdiction where it occurred by imprisonment for a term exceeding one year.

2. As used in this chapter an antique firearm means any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898. An antique firearm also means a replica of a firearm so described if the replica is not designed or redesigned for using rimfire or conventional

centerfire fixed ammunition or if the replica uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

Sec. 18. Section seven hundred twenty-four point twenty-seven (724.27), Code 1977 Supplement, is amended to read as follows:

724.27 EXCEPTION TO SECTION SECTIONS SEVEN HUNDRED TWENTY-FOUR POINT EIGHT (724.8), SUBSECTION TWO (2) AND SEVEN HUNDRED TWENTY-FOUR POINT FIFTEEN (724.15), SUBSECTION ONE (1) OF THE CODE SUPPLEMENT, AND 724.26. The provisions of ~~section~~ sections seven hundred twenty-four point eight (724.8), subsection two (2) and seven hundred twenty-four point fifteen (724.15), subsection one (1), paragraphs b and e of the Code Supplement, and 724.26 shall not apply to a person who is pardoned or has had his or her civil rights restored by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.

Sec. 19. Section seven hundred twenty-four point fourteen (724.14), Code 1977 Supplement, is repealed.

Sec. 20. This Act is effective January 1, 1979.

Approved June 22, 1978

CHAPTER 1175

NAME CHANGE FOR MARRIED PERSONS

H. F. 2116

AN ACT exempting certain married persons from the requirement that certain information be given prior to a name change.

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

Section 1. Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred thirty-six (136), section one (1), as it amends chapter five hundred ninety-five (595), Code 1977, is amended to read as follows:

Upon marriage either party may request on the application for a marriage license a name change to that of the other party or to some other surname mutually agreed upon by the parties. The names used on the marriage license shall become

the legal names of the parties to the marriage. The marriage license shall contain a statement that when a name change is requested and affixed to the marriage license, the new name is the legal name of the requesting party. If the parties request a party requests a name change, other than a change of surname to that of the other spouse or to a hyphenated combination of the surnames of both spouses, the parties party shall request approval of the court pursuant to chapter six hundred seventy-four (674) of the Code and shall submit to the court the information required by section six hundred seventy-four point two (674.2) of the Code, and upon approval of the court and solemnization of the marriage, the clerk of court shall send a certified copy of the return of marriage license to the recorder's office in every county in this state where real property is owned by either of the parties. The judge may approve the name change. The new names and the immediate former names shall appear on the return of marriage, and the return of marriage shall be recorded in the miscellaneous records in the recorder's office. An individual can~~y-however~~ have only one legal name at any one time.

Sec. 2. Section six hundred six point fifteen (606.15), subsection twenty-eight (28), Code 1977, is amended to read as follows:

28. For issuing marriage licenses, five dollars each~~y~~ and-for. For issuing marriage licenses when a party requests a name change other than a change of surname to that of the other spouse or to a hyphenated combination of the surnames of both spouses, seven dollars and fifty cents each. Two dollars and fifty cents of the seven dollars and fifty cents shall be paid to the recorder as a recording fee for recording the return of marriage. For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars each.

Sec. 3. Section six hundred seventy-four point two (674.2), unnumbered paragraph one (1) and subsection one (1), Code 1977, is amended to read as follows:

The verified petition shall be addressed to the district court of the county where the applicant resides, and shall state:

1. The name of petitioner ~~and-that-he-or-she-is-a-resident of-the-county-where-filed~~ at the time the petition is filed

and county of residence of the petitioner.

Sec. 4. Section six hundred seventy-four point two (674.2), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The name the petitioner proposes to take.

Approved June 2, 1978

CHAPTER 1176
CHILD SUPPORT ORDERS

S. F. 149

AN ACT relating to mandatory wage assignment in child support orders.

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

Section 1. Section five hundred ninety-eight point twenty-three (598.23), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The court may, as an alternative to punishment for contempt, make an order directing the defaulting party to assign a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as those to be made in the future. The assignment order shall ~~not~~ be binding upon the employer only for those amounts that represent child support and only ~~7-but-the-court-shall-send upon receipt by the employer of a copy of the order, signed by the employee,7-to-the-employer-and-request-his-co-operation in-deducting-support-payments.~~ For each payment deducted in compliance with such request, the employer shall receive one dollar to cover the expense created by the deduction, which amount shall be deducted from the money due the employee. Compliance by an employer with the court's request shall operate as a discharge of his liability to the employee as to the affected portion of the employee's wages.

Sec. 2. Section five hundred thirty-seven point five thousand one hundred five (537.5105), subsection one (1), paragraph a, Code 1977, is amended to read as follows:

a. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld or assigned.

Approved June 5, 1978

CHAPTER 1177
MARRIAGE DISSOLUTION RECORDS

S. F. 44

AN ACT to provide that certain records required to be filed in a dissolution action shall not be public records, and providing a penalty.

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

Section 1. Section five hundred ninety-eight point twenty-six (598.26), Code 1977, is amended by striking the section and inserting in lieu thereof the following:

598.26 RECORD--IMPOUNDING--VIOLATION INDICTABLE. The record and evidence in each case of marriage dissolution shall be kept pursuant to the following provisions:

1. Until a decree of dissolution has been entered, the record and evidence shall be closed to all but the court and its officers. No officer or other person shall permit a copy of any of the testimony, or pleading, or the substance thereof, to be made available to any person other than a party to the action or a party's attorney. Nothing in this subsection shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure.

2. The court shall, in the absence of objection by another party, grant a motion by a party to require the sealing of an answer to an interrogatory or of a financial statement filed pursuant to section five hundred ninety-eight point thirteen (598.13) of the Code. The court may in its discretion grant a motion by a party to require the sealing of any other information which is part of the record of the case except for court orders, decrees and any judgments. If the court grants a motion to require the sealing of information in the case, the sealed information shall not thereafter be made available to any person other than a party to the action or a party's attorney except upon order of the court for good cause shown.

3. If the action is dismissed, judgment for costs shall be entered in the judgment docket and lien index. The clerk shall maintain a separate docket for dissolution of marriage actions.

4. Violation of the provisions of this section shall be a serious misdemeanor.

Sec. 2. Chapter one thousand two hundred forty-five (1245),

Acts of the Sixty-sixth General Assembly, 1976 Session, chapter four (4), is amended by striking section four hundred eighty-two (482).

Approved June 2, 1978

CHAPTER 1178

ADOPTION BY STEPPARENT

H. F. 2223

AN ACT to provide that a separate termination of parental rights proceeding shall not be required in cases of stepparent adoptions.

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

Section 1. Section six hundred point three (600.3), subsection two (2), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred forty (140), section two (2), is amended by striking the subsection and inserting in lieu thereof the following:

2. An adoption petition shall not be filed until a termination of parental rights has been accomplished except in the following cases:

a. No termination of parental rights is required if the person to be adopted is an adult.

b. If the stepparent of the child to be adopted is the adoption petitioner, the parent-child relationship between the child and the parent who is not the spouse of the petitioner may be terminated as part of the adoption proceeding by the filing of that parent's consent to the adoption.

For the purposes of this subsection, a consent to adopt recognized by the courts of another jurisdiction in the United States and obtained from a resident of that jurisdiction shall be accepted in this state in lieu of a termination of parental rights proceeding.

Sec. 2. Section six hundred point three (600.3), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred forty (140), section two (2), is amended by adding the following new subsection:

NEW SUBSECTION. Any adoption proceeding pending on or completed prior to the effective date of this Act is hereby legalized and validated to the extent that it is consistent with this Act.

Approved June 14, 1978

CHAPTER 1179

CIVIL RIGHTS

H. F. 2390

AN ACT amending the Iowa civil rights law.

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

Section 1. Chapter six hundred one A (601A), Code 1977, is amended by adding the following new section:

NEW SECTION. ONE HUNDRED TWENTY-DAY ADMINISTRATIVE RELEASE.

1. A person claiming to be aggrieved by an unfair or discriminatory practice must initially seek an administrative relief by filing a complaint with the commission in accordance with section six hundred one A point fourteen (601A.14) of the Code. A complainant after the proper filing of a complaint with the commission, may subsequently commence an action for relief in the district court if all of the following conditions have been satisfied:

a. The complainant has timely filed the complaint with the commission as provided in subsection fifteen (15) of section six hundred one A point fourteen (601A.14) of the Code; and

b. The complaint has been on file with the commission for at least one hundred twenty days and the commission has issued a release to the complainant pursuant to subsection two (2) of this section.

2. Upon a request by the complainant, and after the expiration of one hundred twenty days from the timely filing of a complaint with the commission, the commission shall issue to the complainant a release stating that the complainant has a right to commence an action in the district court. A release under this subsection shall not be issued if a finding of no probable cause has been made on the complaint by the hearing officer charged with that duty under section twelve (12) of this Act, or a conciliation agreement has been executed under section six hundred one A point fourteen (601A.14) of the Code, or the commission has served notice of hearing upon the respondent pursuant to subsection six (6) of section six hundred one A point fourteen (601A.14) of the Code.

3. An action authorized under this section is barred unless commenced within ninety days after issuance by the commission of a release under subsection two (2) of this

section or within one year after the filing of the complaint, whichever occurs first. If a complainant obtains a release from the commission under subsection two (2) of this section, the commission shall be barred from further action on that complaint.

4. Venue for an action under this section shall be in the county in which the respondent resides or has its principal place of business, or in the county in which the alleged unfair or discriminatory practice occurred.

5. The district court may grant any relief in an action under this section which is authorized by subsection twelve (12) of section six hundred one A point fourteen (601A.14) of the Code to be issued by the commission. The district court may also award the respondent reasonable attorney's fees and court costs when the court finds that the complainant's action was frivolous.

6. It is the legislative intent of this Act that every complaint be at least preliminarily screened during the first one hundred twenty days.

Sec. 2. Section six hundred one A point two (601A.2), subsection seven (7), Code 1977, is amended to read as follows:

7. "Unfair practice" or "discriminatory practice" means those practices specified as unfair or discriminatory in sections 601A.6, 601A.7, six hundred one A point eight (601A.8), six hundred one A point nine (601A.9) of the Code, and 601A.10, and section twenty-two (22) of this Act.

Sec. 3. Section six hundred one A point two (601A.2), subsection ten (10), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. "Public accommodation" includes each state and local government unit or tax-supported district of whatever kind, nature, or class that offers services, facilities, benefits, grants or goods to the public, gratuitously or otherwise. This paragraph shall not be construed by negative implication or otherwise to restrict any part or portion of the pre-existing definition of the term "public accommodation".

Sec. 4. Section six hundred one A point five (601A.5), subsections two (2) and three (3), Code 1977, are amended to read as follows:

2. To receive, investigate, and pass-upon finally determine the merits of complaints alleging unfair or discriminatory practices.

3. To investigate and study the existence, character, causes, and extent of discrimination in public accommodations,

employment, apprenticeship programs, on-the-job training programs, vocational schools, credit practices, and housing in this state and to attempt the elimination of such discrimination by education and conciliation.

Sec. 5. Section six hundred one A point six (601A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen years, unless that person is considered by law to be an adult.

Sec. 6. Section six hundred one A point six (601A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding the provisions of this section, a state or federal program designed to benefit a specific age classification which serves a bona fide public purpose shall be permissible.

Sec. 7. Section six hundred one A point six (601A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. This section shall not apply to age discrimination in bona fide apprenticeship employment programs if the employee is over forty-five years of age.

Sec. 8. Section six hundred one A point six (601A.6), subsection two (2), paragraph d, Code 1977, is amended to read as follows:

d. Any bona fide religious institution or its educational facility, association, corporation or society with respect to any qualifications for employment based on religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional personnel or an administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution, shall be presumed to be a bona fide occupational qualification.

Sec. 9. Section six hundred one A point eight (601A.8), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION.

4. To discriminate against the lessee or purchaser of any real property or housing accommodation or part, portion or interest of the real property or housing accommodation, or against any prospective lessee or purchaser of the property or accommodation, because of the race, color, creed, religion, sex, disability, age or national origin of persons who may from time to time be present in or on the lessee's or owner's premises for lawful purposes at the invitation of the lessee

or owner as friends, guests, visitors, relatives or in any similar capacity.

Sec. 10. Section six hundred one A point nine (601A.9), Code 1977, is amended to read as follows:

601A.9 UNFAIR CREDIT PRACTICES. It shall be an unfair or discriminatory practice for any:

1. ~~A-creditor-shall-not~~ Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, or physical disability.

2. ~~A-person~~ Person authorized or licensed to do business in this state pursuant to chapter 524, 533, 534, 536, or 536A ~~shall-not~~ to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex or physical disability.

3. Creditor to refuse to offer credit life or health and accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability or sex. Refusal by a creditor to offer credit life or health and accident insurance based upon the age or physical disability of the consumer shall not ~~vioiate-the-provisiens of-this-section-provided~~ be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by title XX.

The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

Sec. 11. Section six hundred one A point fourteen (601A.14), subsection one (1), Code 1977, is amended by striking unnumbered paragraph two (2).

Sec. 12. Section six hundred one A point fourteen (601A.14), subsection three (3), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

3. a. After the filing of a verified complaint, a true copy shall be served within twenty days by certified mail on the person against whom the complaint is filed. An authorized member of the commission staff shall make a prompt investigation and shall issue a recommendation to a hearing officer under the jurisdiction of the commission, who shall

then issue a determination of probable cause or no probable cause.

b. For purposes of this Act, a hearing officer issuing a determination of probable cause or no probable cause under this section shall be exempt from the provisions of section seventeen A point seventeen (17A.17) of the Code.

c. If the hearing officer concurs with the investigating official that probable cause exists regarding the allegations of the complaint, the staff of the commission shall promptly endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion. If the hearing officer finds that no probable cause exists, the hearing officer shall issue a final order dismissing the complaint and shall promptly mail a copy to the complainant and to the respondent by certified mail. A finding of probable cause shall not be introduced into evidence in an action brought under section one (1) of this Act.

d. The commission staff must endeavor to eliminate the discriminatory or unfair practice by conference, conciliation, and persuasion for a period of thirty days following the initial conciliation meeting between the respondent and the commission staff after a finding of probable cause. After the expiration of thirty days, the director may order the conciliation conference and persuasion procedure provided in this section to be bypassed when the director determines the procedure is unworkable by reason of past patterns and practices of the respondent, or a statement by the respondent that the respondent is unwilling to continue with the conciliation. The director must have the approval of a commissioner before bypassing the conciliation, conference and persuasion procedure. Upon the bypassing of conciliation, the director shall state in writing the reasons for bypassing.

Sec. 13. Section six hundred one A point fourteen (601A.14), Code 1977, is amended by striking subsection five (5).

Sec. 14. Section six hundred one A point fourteen (601A.14), subsection six (6), Code 1977, is amended to read as follows:

6. When the ~~investigating-official~~ director is satisfied that further endeavor to settle a complaint by conference, conciliation, and persuasion ~~shall-be-futile~~ is unworkable and should be bypassed, and the thirty day period provided for in subsection three (3) of section six hundred one A point fourteen (601A.14) of the Code has expired without agreement,

~~the official shall report the same to the commission,--if the commission determines that the circumstances warrant,~~
~~it~~ the director with the approval of a commissioner, shall issue and cause to be served a written notice specifying the charges in the complaint as they may have been amended and the reasons for bypassing conciliation, if the conciliation is bypassed, and requiring the respondent to answer the charges of such the complaint at a hearing before the commission, a commissioner, or such other a person designated by the commission to conduct the hearing, hereafter referred to as the hearing examiner officer, and at a time and place to be specified in such the notice.

Sec. 15. Section six hundred one A point fourteen (601A.14), Code 1977, is amended by striking subsections eight (8) through eleven (11) and inserting in lieu thereof the following:

8. The hearing shall be conducted in accordance with the provisions of chapter seventeen A (17A) of the Code for contested cases. The burden of proof in such a hearing shall be on the commission.

Sec. 16. Section six hundred one A point fourteen (601A.14), subsection twelve (12), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

12. If upon taking into consideration all of the evidence at a hearing, the commission determines that the respondent has engaged in a discriminatory or unfair practice, the commission shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take the necessary remedial action as in the judgment of the commission will carry out the purposes of this chapter. A copy of the order shall be delivered to the respondent, the complainant, and to any other public officers and persons as the commission deems proper.

a. For the purposes of this subsection and pursuant to the provisions of this chapter "remedial action" includes but is not limited to the following:

(1) Hiring, reinstatement or upgrading of employees with or without pay. Interim earned income and unemployment compensation shall operate to reduce the pay otherwise allowable.

(2) Admission or restoration of individuals to a labor organization, admission to or participation in a guidance

program, apprenticeship training program, on-the-job training program or other occupational training or retraining program, with the utilization of objective criteria in the admission of individuals to such programs.

(3) Admission of individuals to a public accommodation or an educational institution.

(4) Sale, exchange, lease, rental, assignment or sublease of real property to an individual.

(5) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent denied to the complainant because of the discriminatory or unfair practice.

(6) Reporting as to the manner of compliance.

(7) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the commission and inclusion of notices in advertising material.

(8) Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice which damages shall include but are not limited to actual damages, court costs and reasonable attorney fees.

b. In addition to the remedies provided in the preceding provisions of this subsection, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this chapter as follows:

(1) In the case of a respondent operating by virtue of a license issued by the state or a political subdivision or agency, if the commission, upon notice to the respondent with an opportunity to be heard, determines that the respondent has engaged in a discriminatory or unfair practice and that the practice was authorized, requested, commanded, performed or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the licensing agency. Unless the commission finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the licensing agency. If a certification is made pursuant to this subsection, the licensing agency may initiate licensee disciplinary procedures.

(2) In the case of a respondent who is found by the commission to have engaged in a discriminatory or unfair practice in the course of performing under a contract or subcontract

with the state or political subdivision or agency, if the practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of his or her employment, the commission shall so certify to the contracting agency. Unless the commission's finding of a discriminatory or unfair practice is reversed in the course of judicial review, the finding of discrimination is binding on the contracting agency.

(3) Upon receiving a certification made under this subsection, a contracting agency may take appropriate action to terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with the provisions of this Act; and assist the state and all political subdivisions and agencies thereof to refrain from entering into further contracts.

c. The election of an affirmative order under paragraph b of this subsection shall not bar the election of affirmative remedies provided in paragraph a of this subsection.

Sec. 17. Section six hundred one A point fourteen (601A.14), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The terms of a conciliation agreement reached with the respondent may require him or her to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement, to take remedial action as in the judgment of the commission will carry out the purposes of this Act, and to consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished as contempt by the court in which it is filed, upon a showing by the commission of the violation at any time within six months of its occurrence. In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, and such other persons as the commission deems proper. At any time in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent.

Upon a finding that the terms of the conciliation agreement are not being complied with by the respondent, the commission shall take appropriate action to assure compliance.

Sec. 18. Section six hundred one A point fourteen (601A.14), subsection thirteen (13), Code 1977, is amended to read as follows:

13. If, upon taking into consideration all of the evidence at a hearing, the commission ~~shall find~~ finds that a respondent has not engaged in any such discriminatory or unfair practice, the commission shall ~~state its findings of fact and shall~~ issue and cause to be served an order denying relief and stating the findings of fact and conclusions of the commission, and shall cause a copy of the order dismissing the complaint to be served by certified mail on the complainant and the respondent dismissing the complaint.

Sec. 19: Section six hundred one A point fourteen (601A.14), subsection fifteen (15), Code 1977, is amended to read as follows:

15. ~~Any verified complaint filed under this chapter shall be so filed~~ A claim under this chapter shall not be maintained unless a complaint is filed with the commission within one hundred ~~twenty~~ eighty days after the alleged discriminatory or unfair practice occurred.

Sec. 20. Section six hundred one A point fifteen (601A.15), subsection one (1), Code 1977, is amended by adding the following new paragraph:

NEW PARAGRAPH. For purposes of the time limit for filing a petition for judicial review under the Iowa administrative procedure Act, specified by section seventeen A point nineteen (17A.19) of the Code, the issuance of a final decision of the commission under this chapter occurs on the date notice of the decision is mailed by certified mail, to the parties.

Sec. 21. Section six hundred one A point seventeen (601A.17), Code 1977, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Nothing in this chapter shall be construed as indicating an intent to prohibit an agency of local government having as its purpose the investigation and resolution of violations of this chapter from developing procedures and remedies necessary to insure the protection of rights secured by the Iowa civil rights Act. An agency of local government and the Iowa civil rights commission shall cooperate in the sharing of data and research, and coordinating investigations and conciliations in order to eliminate needless duplication.

NEW UNNUMBERED PARAGRAPH. The commission may designate an agency of local government as a referral agency. A local

agency shall not be designated a referral agency unless the ordinance creating it provides the same rights and remedies as are provided in this chapter. The commission shall establish by rules the procedures for designating a referral agency and the qualifications to be met by a referral agency.

NEW UNNUMBERED PARAGRAPH. A complainant who files a complaint with a referral agency having jurisdiction shall be prohibited from filing a complaint with the commission alleging violations based upon the same acts or practices cited in the original complaint; and a complainant who files a complaint with the commission shall be prohibited from filing a complaint with a referral agency alleging violations based upon the same acts or practices cited in the original complaint. However, the commission in its discretion may refer a complaint filed with the commission to a referral agency having jurisdiction over the parties for investigation and resolution; and a referral agency in its discretion may refer a complaint filed with that agency to the commission for investigation and resolution. The commission may promulgate rules establishing the procedures for referral of complaints. A referral agency may refuse to accept a case referred to it by the commission if the referral agency is unable to effect proper administration of the complaint. It shall be the burden of the referral agency to demonstrate that it is unable to properly administer that complaint.

NEW UNNUMBERED PARAGRAPH. A final decision by a referral agency shall be subject to judicial review as provided in section six hundred one A point fifteen (601A.15) of the Code in the same manner and to the same extent as a final decision of the commission.

NEW UNNUMBERED PARAGRAPH. The referral of a complaint by the commission to a referral agency or by a referral agency to the commission shall not affect the right of a complainant to commence an action in the district court under section one (1) of this Act.

Sec. 22. Chapter six hundred one A (601A), Code 1977, is amended by adding the following new section:

NEW SECTION. UNFAIR OR DISCRIMINATORY PRACTICES--EDUCATION. It shall be an unfair or discriminatory practice for any educational institution to discriminate on the basis of sex in any program or activity. Such discriminatory practices shall include but not be limited to the following practices:

1. On the basis of sex, exclusion of a person or persons from participation in, denial of the benefits of, or subjection

to discrimination in any academic, extracurricular, research, occupational training, or other program or activity except athletic programs;

2. On the basis of sex, denial of comparable opportunity in intramural and interscholastic athletic programs;

3. On the basis of sex, discrimination among persons in employment and the conditions thereof;

4. On the basis of sex, the application of any rule concerning the actual or potential parental, family or marital status of a person, or the exclusion of any person from any program or activity or employment because of pregnancy or related conditions dependent upon the physician's diagnosis and certification.

For the purpose of this section "educational institution" includes any public preschool, or elementary, secondary, or merged area school or area education agency and their governing boards. Nothing in this section shall be construed to prohibit any educational institution from maintaining separate toilet facilities, locker rooms or living facilities for the different sexes so long as comparable facilities are provided.

Sec. 23. This Act shall take effect January 1, 1979.

Approved June 29, 1978

CHAPTER 1180
SHORTHAND REPORTERS

S. F. 2008

AN ACT to provide a salary increase for shorthand reporters.

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

Section 1. Section six hundred five point eight (605.8), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The base starting salary of a full-time certified shorthand reporter shall be fourteen thousand seven hundred dollars. The base salary may be increased by an amount not to exceed six hundred thirty dollars for each year of experience as a shorthand reporter. The maximum salary shall not exceed eighteen nineteen thousand eight seven hundred forty dollars except as provided in this section.

Sec. 2. Chapter six hundred five (605), Code 1977, is amended by adding the following new section:

NEW SECTION. Shorthand reporters will receive such compensation as fixed by rule of the supreme court or by statute for transcribing their notes pursuant to section six hundred five point eleven (605.11) Code 1977, but shall not work on outside depositions during the hours for which the reporters are compensated pursuant to section six hundred five point eight (605.8) Code 1977.

Approved June 5, 1978

CHAPTER 1181

COURT RECORDS DESTROYED

S. F. 2181

AN ACT providing for the destruction of certain court records.

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

Section 1. Section six hundred six point twenty-two (606.22), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. All records, dockets, and court files of civil and criminal actions heard in the municipal court which were transferred to the district court clerk under section six hundred two point thirty-six (602.36) of the Code, other than juvenile and adoption proceedings, at any time after a period of twenty years from the date of filing of such actions.

NEW SUBSECTION. Original court files on dissolutions of marriage, one year after dismissal by the parties or under rule two hundred fifteen (215) of the rules of civil procedure.

NEW SUBSECTION. Small claims files, one year after dismissal with or without prejudice.

NEW SUBSECTION. Uniform traffic citations in the magistrate court or traffic and scheduled violations office, one year after final disposition.

Sec. 2. This Act is effective January 1, 1979.

Approved June 5, 1978

CHAPTER 1182

JUDICIAL DEPARTMENT MESSAGE

S. F. 99

AN ACT relating to a state of the judicial department message.

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

Section 1. NEW SECTION. The chief justice of the supreme court shall communicate, by message, to the general assembly, at every regular session, the condition of the judicial department, and recommend such matters as the chief justice deems expedient.

Approved June 12, 1978

CHAPTER 1183

INCENDIARY DEVICE DEFINED

H. F. 616

AN ACT amending the criminal code revision to define "incendiary device."

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

Section 1. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one (1), is amended by adding the following new section after section two hundred eleven (211):

NEW SECTION. INCENDIARY DEVICE. An incendiary device is a device, contrivance, or material causing or designed to cause destruction of property by fire.

Approved April 27, 1978

CHAPTER 1184

MULTIPLE COUNTS IN INDICTMENT OR INFORMATION

S. F. 106

AN ACT relating to filing multiple counts in a single information, indictment, or complaint charging false use of a financial instrument.

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

Section 1. Chapter seven hundred fifteen (715), Code 1977 Supplement, is amended by adding the following section after section seven hundred fifteen point six (715.6):

NEW SECTION. FILING MULTIPLE COUNTS IN ONE INFORMATION, INDICTMENT, OR COMPLAINT. A single information, indictment, or complaint charging false use of a financial instrument may allege more than one such violation against a person. The multiple charges shall be set out in separate counts, and the accused person shall be acquitted or convicted upon each count by a separate verdict. A convicted person shall be sentenced upon each verdict of guilty. The court may consider separate verdicts of guilty returned at the same time as one offense for the purpose of sentencing.

Approved June 5, 1978

CHAPTER 1185

CRIMINAL FLIGHT

H. F. 2382

AN ACT relating to flight from the state to avoid prosecution and providing a penalty.

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

Section 1. Section seven hundred nineteen point four (719.4), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person who flees from the state to avoid prosecution for a public offense which is a felony or aggravated misdemeanor commits a class D felony.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Telegraph Herald, a newspaper published in Dubuque, Iowa, and in The Cedar Rapids Gazette, a newspaper published in Cedar Rapids, Iowa.

Approved June 14, 1978

I hereby certify that the foregoing Act, House File 2382, was published in the Telegraph Herald, Dubuque, Iowa on June 19, 1978, and in The Cedar Rapids Gazette, Cedar Rapids, Iowa on June 21, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1186

PROTECTION FOR OWNERS OF ENTERPRISES

S. F. 376

AN ACT relating to the protection of the rights of owners of enterprises, and providing penalties.

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

DIVISION I

Section 1. Chapter one thousand two hundred forty-five (1245), Acts of the Sixty-sixth General Assembly, 1976 Session, chapter one (1), division twenty-two (XXII), is amended by adding the following new section:

NEW SECTION. COMMERCIAL BRIBERY.

1. As used in subsection two (2) of this section, the following definitions shall apply unless the context otherwise requires:

a. "Employer" means any sole proprietor, partnership, corporation, association, or other entity or organization.

b. "Employee" includes every officer, employee, agent or representative.

c. "Gratuity" means consideration in any form, including but not limited to a gift, commission, discount and bonus.

2. It is unlawful for a person to offer or deliver directly or indirectly for the personal benefit of an employee acting on behalf of his or her employer in a business transaction or course of transactions with the person a gratuity in consideration of an act or omission which the person has reason to know is in conflict with the employment relation and duties of the employee to the employer. It is unlawful for an employee acting on behalf of his or her employer in a business transaction or course of transactions with a person to solicit or receive from the person a gratuity directly or indirectly for the personal benefit of the employee in consideration of an act or omission which the employee has reason to know is in conflict with the employment relation and duties of the employee to the employer.

3. A violation of subsection two (2) of this section is a class "D" felony.

DIVISION II

Sec. 2. Section four hundred ninety-six A point thirty-one (496A.31), Code 1977, is amended to read as follows:

496A.31 QUORUM OF SHAREHOLDERS. Unless otherwise provided

in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders, but in no event shall a quorum consist of less than one-fourth of the shares entitled to vote at the meeting. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this chapter or the articles of incorporation or bylaws.

Sec. 3. Section four hundred ninety-six A point one hundred thirty-eight (496A.138), Code 1977, is amended to read as follows:

496A.138 VOTING REQUIREMENTS. Whenever, with respect to any action to be taken by the shareholders of a corporation, the articles of incorporation require the vote or concurrence of the holders of a greater ~~or lesser~~ proportion of the shares, or of any class or series thereof, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control.

DIVISION III

Sec. 4. Section five hundred two point one hundred two (502.102), Code 1977, is amended by adding as subsection fourteen (14) the following new subsection:

14. NEW SUBSECTION. "Equity security", for the purposes of sections five (5) through eleven (11) of this Act, means any stock, bond or other obligation the holder of which has the right to vote, or any share of stock or similar security representing an equity interest in the target company, or any security convertible into, or any right, option or warrant to purchase, any such stock, bond, obligation or security.

Sec. 5. Section five hundred two point one hundred two (502.102), Code 1977, is amended by adding as subsection fifteen (15) the following new subsection:

15. NEW SUBSECTION.

a. "Target company" means a person whose securities are or are to be the subject of an offer to acquire, pursuant to a tender offer or request or invitation for tenders, any equity securities of such person provided that such person is either:

- (1) A person which is a Williams Act registrant and is either (i) organized under the laws of the state of Iowa or (ii) has its principal place of business within the state of Iowa; or

(2) A person which (i) is not a Williams Act registrant and (ii) has registered any equity security at any time subsequent to December 31, 1959 under either this Act or under chapter five hundred two (502) of the Code as it existed prior to the effective date of this Act.

b. For purposes of this subsection, a "Williams Act registrant" means a person which (i) has any equity security which is registered pursuant to section twelve (12) of the Securities Exchange Act of 1934; or (ii) is an insurance company which would have been required to register any equity security pursuant to section twelve (12) of the Securities Exchange Act of 1934 except for the exemption provided in subparagraph G of paragraph two (2) of subsection g of section twelve (12) of the Securities Exchange Act of 1934; or (iii) is a closed-end investment company registered under the Investment Company Act of 1940.

c. For purposes of this subsection, the term "principal place of the business" shall have the same meaning as that term when used in title twenty-eight (28), United States Code, section one thousand three hundred thirty-two (1332), subsection c.

Sec. 6. Section five hundred two point one hundred two (502.102), Code 1977, is amended by adding as subsection sixteen (16) the following new subsection:

16. NEW SUBSECTION. "Tender offer" shall not include (i) an offer to purchase equity securities to be effected by a registered broker-dealer on a stock exchange or in the over-the-counter market if the broker performs only the customary broker's function, and receives no more than the customary broker's commission, and neither the principal nor the broker solicits or arranges for the solicitation of orders to sell such equity securities; or (ii) any offer if the acquisition of all equity securities for which the offer is made, together with all other acquisitions by the offeror of securities of the same class during the preceding twelve months, would not exceed two percent of that class; or (iii) offers made by a broker-dealer for its own account in the ordinary course of its business of buying and selling such security.

Sec. 7. Chapter five hundred two (502), Code 1977, is amended by adding as section five hundred two point two hundred eleven (502.211) the following new section:

502.211 NEW SECTION. REGISTRATION REQUIREMENT. It is unlawful for any person to purchase an equity security of

a target company pursuant to a cash tender offer for such security unless the offeror's tender offer registration statement pertaining to such security is in effect under section eight (8) or section nine (9) of this Act if (i) after the consummation of the cash tender offer, the offeror and the affiliates of the offeror would own beneficially, directly or indirectly, more than five percent of any class of the outstanding equity securities of the target company; or (ii) the offer is for five percent or more of any class of outstanding equity securities of the target company and the offer is made by the target company itself.

Sec. 8. Chapter five hundred two (502), Code 1977, is amended by adding as section five hundred two point two hundred twelve (502.212) the following new section:

502.212 NEW SECTION. TENDER OFFER REGISTRATION BY CO-ORDINATION.

1. Tender offer registration by coordination may be used for any tender offer for which a tender offer statement has been filed under section fourteen (14), paragraph one (1) of subsection d of the Securities Exchange Act of 1934.

2. A tender offer registration statement under this section shall contain the following information and shall be accompanied by the following documents in addition to the consent to service of process required by section five hundred two point six hundred nine (502.609) of the Code.

a. Two copies of the tender offer statement, including all exhibits thereto, filed under the Securities Exchange Act of 1934.

b. An undertaking to forward to the administrator two copies of all future amendments to such tender offer statement (including exhibits thereto) and of all additional material soliciting or requesting tender offers, not later than the first business day after they are forwarded to or filed with the securities and exchange commission.

3. A copy of the tender offer statement, filed under the Securities Exchange Act of 1934, including all exhibits thereto, shall be sent by registered or certified mail, or delivered to the target company at its principal executive office.

4. On the tenth day after both (i) the tender offer registration statement required by subsection two (2) of this section has been filed and (ii) the documents required by subsection three (3) of this section have been sent, the tender offer registration statement shall become effective if

no stop order is in effect in this state and no proceeding is pending under section eleven (11) of this Act; except that while a tender offer registration statement is effective, a subsequent tender offer made by any other person with respect to the same securities shall become effective on the fourth business day after both (i) the filing of the tender offer registration statement required by subsection two (2) of this section and (ii) the sending of the documents required by subsection three (3) of this section, if no stop order is in effect in this state and no proceeding is pending under section eleven (11) of this Act.

5. After a tender offer registration statement has become effective pursuant to subsection four (4) of this section, an amendment thereto shall become effective upon (i) the filing of said amendment and (ii) the sending of said amendment, by registered or certified mail, to the target company at its principal office.

6. Prior to a tender offer registration statement having become effective pursuant to subsection four (4) of this section, an amendment thereto may be filed, but such amendment shall not be deemed to be filed until a copy of said amendment has been sent by registered or certified mail to the target company at its principal office. The filing of such an amendment shall not extend the time periods specified in subsection four (4) of this section.

7. All additional materials, other than the tender offer statement itself, soliciting or requesting tender offers shall be sent, by registered or certified mail, to the target company at its principal executive office at the same time they are sent to the administrator.

8. A tender offer shall remain open for not less than the longer of the following periods:

- a. Twenty-one days after it becomes effective;
- b. Fourteen days after any amendment which changes the amount or type of consideration offered or the number of equity securities for which the offer is made;
- c. The period of time during which the offer is required, by the Securities Exchange Act of 1934 or the rules promulgated thereunder, to remain open.

9. Every tender offer registration statement shall remain effective until ninety days after it has become effective, unless it has earlier expired by its terms or has been withdrawn, suspended, or revoked, but the effectiveness of any such registration statement may be extended by order of

the administrator upon application by the offeror.

Sec. 9. Chapter five hundred two (502), Code 1977, is amended by adding as section five hundred two point two hundred thirteen (502.213) the following new section:

502.213 NEW SECTION. TENDER OFFER REGISTRATION BY QUALIFICATION.

1. Any tender offer may be registered by qualification.
2. A tender offer registration statement under this section shall contain the following information and shall be accompanied by the consent to service of process required by section five hundred two point six hundred nine (502.609) of the Code:
 - a. The name and address of the offeror and of any person controlling the offeror and of each director and each executive officer (or person occupying a similar status or performing similar functions) of the offeror and of any person controlling the offeror; a description of the business of the offeror (including a description of any material pending legal or administrative proceeding) and of its affiliates; as to each director or officer, such person's principal occupation for the past five years and any criminal convictions (excluding traffic violations or similar misdemeanors) or any securities law, antitrust, labor law, environmental law, or fair employment practices injunction or judgment entered against such person or against the offeror or any person in control of the offeror during the past five years;
 - b. A description of the equity securities to be purchased and the consideration to be offered;
 - c. The duration of the offer;
 - d. The date on which the offeror may first purchase tendered securities;
 - e. The amount or number of equity securities to be purchased or the manner in which such number or amount will be determined;
 - f. Whether the offeror will unconditionally accept all or any part of the equity securities tendered and, if not, upon what conditions acceptance will be made;
 - g. The number or amount of any equity securities of the target company owned beneficially by the offeror and all affiliates of the offeror as of the date of the filing of the registration statement and a description of all transactions within one year of the filing of the registration statement in which the offeror or any of its affiliates acquired or

disposed of any such securities;

h. A description of any present and proposed contract, agreement or understanding to which the offeror or any affiliate of the offeror is a party with respect to the ownership, voting rights or any other interest in any equity security of the target company;

i. The source and amount of funds to be used in making the purchases, including a description of all borrowing transactions and the parties thereto;

j. The purposes of the proposed purchase and if any such purpose is to acquire control of the target company, any plans to make any major change in the business, assets, location of facilities, employment levels, corporate structure, capitalization or dividend policies of the target company;

k. The exact dates prior to which or subsequent to which the security holders who deposit their securities will have the right to withdraw their securities;

l. A description of any material transactions, negotiations or business relationships between the offeror or its affiliates and the target company or its affiliates during the past three years;

m. A description of any plans to make any changes in the present board of directors or management of the target company;

n. Any present or proposed contract, arrangement or understanding between the offeror or any of its affiliates and the target company, or any of its executive officers, directors or affiliates; and,

o. Copies of (i) a balance sheet of the offeror (and of any person, other than any individual, controlling the offeror) as of the close of its most recent fiscal year; (ii) the income statement of the offeror (and of any person, other than any individual, controlling the offeror) for the three years ended with the balance sheet required by (i) hereof; (iii) the statements of sources and application of funds of the offeror (and of any person, other than any individual, controlling the offeror) for the three years ended with the balance sheet required by (i) hereof; and (iv) a balance sheet of the offeror (or of said person controlling the offeror, as the case may be) and statements of income and of sources and application of funds for such person for the period from the close of its most recent fiscal year to a date within one hundred twenty days of the filing;

p. A description of any material transaction between the offeror and its affiliates during the past three years.

3. A copy of the tender offer registration statement, including all exhibits thereto, shall be sent, by registered or certified mail, to the target company at its principal executive office.

4. On the tenth day after both (i) the tender offer registration statement required by subsection two (2) of this section has been filed and (ii) the documents required by subsection three (3) of this section have been sent, the tender offer registration statement shall become effective if no stop order is in effect in this state and no proceeding is pending under section eleven (11) of this Act; except that while a tender offer registration statement is effective, a subsequent tender offer made by any other person with respect to the same securities shall become effective on the fourth business day after both (i) the filing of the tender offer registration statement required by subsection two (2) of this section and (ii) the sending of the documents required by subsection three (3) of this section, if no stop order is in effect in this state and no proceeding is pending under section eleven (11) of this Act.

5. After a tender offer registration statement has become effective pursuant to subsection four (4) of this section, an amendment thereto shall become effective upon (i) the filing of said amendment and (ii) the sending of said amendment, by registered or certified mail, to the target company at its principal office.

6. Prior to a tender offer registration statement having become effective pursuant to subsection four (4) of this section, an amendment thereto may be filed, but such amendment shall not be deemed to be filed until a copy of said amendment has been sent by registered or certified mail to the target company at its principal office. The filing of such an amendment shall not extend the time periods specified in subsection four (4) of this section.

7. All additional materials, other than the tender offer registration statement itself, soliciting or requesting tender offers, shall, not later than two days after its first use, be (i) sent by registered or certified mail to the target company at its principal executive office and (ii) filed with the administrator.

8. If any material change occurs in the facts set forth in the tender offer registration statement, the offeror shall promptly file with the administrator and mail to the target company, an amendment to said registration statement disclosing

such change.

9. A tender offer shall remain open for not less than the longer of the following periods:

- a. Twenty-one days after it becomes effective; or
- b. Fourteen days after any amendment which changes the amount or type of consideration offered or the number of equity securities for which the offer is made.

10. Securities deposited pursuant to a tender offer may be withdrawn by or on behalf of the depositor:

- a. At any time until the expiration of fifteen days after the registration statement becomes effective; or
- b. If the offeror has not previously accepted them, at any time after sixty days from the date the registration statement becomes effective; or
- c. If the offeror has not previously accepted them, at any time during the fifteen days following the date on which a competing tender offer registration statement has been filed with the administrator; or
- d. If the offeror has not previously accepted them, at any time during the ten days immediately after the effectiveness of any amendment filed by a competing tender offeror which changes the amount or type of consideration offered.

11. If, during the period the tender offer must remain open pursuant to paragraph a of subsection ten (10) of this section, a greater number of equity securities is tendered than the offeror is bound or willing to purchase, the equity securities shall be purchased pro rata, as nearly as may be, according to the number of shares tendered during such period by each equity security holder.

12. Whenever any offeror varies the terms of a tender offer by increasing the consideration offered to holders of such securities, the offeror shall pay the increased consideration to each security holder whose securities are taken up and paid for pursuant to the tender offer whether or not such securities have been taken up by the offeror prior to the variation of the tender offer.

13. Every tender offer registration statement shall remain effective until ninety days after it has become effective, unless it has earlier expired by its terms or has been withdrawn, suspended, or revoked, but the effectiveness of any such registration statement may be extended by order of the administrator upon application by the offeror:

Sec. 10. Chapter five hundred two (502), Code 1977, is amended by adding as section five hundred two point two hundred

fourteen (502.214) the following new section:

502.214 NEW SECTION. PROVISIONS APPLICABLE TO TENDER OFFER REGISTRATION GENERALLY.

1. Every person filing a tender offer registration statement shall pay a nonrefundable filing fee of one hundred dollars.

2. The administrator may by rule or otherwise permit the omission of any item of information or document from any tender offer registration statement.

3. The administrator may by rule or order require as a condition of registration under this Act that all or a part of the information contained in the tender offer registration statement be made publicly available, either prior or subsequent to the registration statement becoming effective, by publication in one or more newspapers of appropriate circulation or be made available to stockholders via a mailing to stockholders.

4. The offeror shall not, during any period during which it is making a tender offer, purchase any equity security of the target company for a consideration other than that stated in its tender offer.

5. The offeror shall not, in connection with any tender offer, purchase any equity security of the target company from any officer, director or affiliate of the target company for a consideration in excess of that to be paid to other stockholders pursuant to the tender offer, unless such purchase is made at the then existing market price.

6. a. The target company shall, not later than the end of the next business day following the receipt of a written request from any offeror who has filed a tender offer registration statement, disclose to such offeror the number of holders of record of the class of securities for which the tender offer will be made. The target company shall, not later than five business days after the receipt from the offeror of a number of sets of the tender offer materials equal to the number of holders of record as disclosed by the target company under this paragraph and the receipt of payment in advance of an amount representing the first class postage required to mail those materials, cause a set of those materials to be mailed, first class postage prepaid, to each holder of record of the class of securities for which the tender offer will be made, provided that the offeror undertakes in writing to the target company that: (i) it will promptly reimburse the target company for any reasonable costs incurred

by the target company in causing such mailing; and (ii) it will promptly furnish at its own expense the number of additional sets of the tender offer materials which may be requested by the target company. The target company shall not cause any materials to be removed from, added to, or incorporated with materials submitted by the offeror for mailing.

b. The target company may, at its option, elect to furnish shareholder lists to the offeror as provided in this paragraph in lieu of complying with paragraph a of this subsection. If the target company elected to furnish such lists, it shall, not later than the end of the next business day following the receipt of a written request from the offeror, give notice in writing to the offeror of such election, and shall, within four business days after receipt of the request, furnish to such offeror the most recent list, in whatsoever form is reasonably requested by the offeror, in its possession or under its control, of the names and addresses of the holders of record of the class of securities for which the tender offer will be made, together with the number of shares so held, and together with the security position listings, if any, from the depository trust company and similar clearing agencies, provided that the offeror undertakes in writing to the target company that: (i) such lists will be used exclusively in connection with the tender offer; (ii) it will promptly reimburse the target company for the reasonable costs incurred by it in furnishing such lists; and (iii) it undertakes in writing to mail, at its own expense, a copy of the tender offer material to each person whose name appears on the list of stockholders and to furnish, at its own expense, the number of sets of the tender offer materials requested by participants whose names appear on the clearing agency's security position listings.

c. The target company shall, within two business days after the receipt of a written request from an offeror which has previously received a shareholder list pursuant to paragraph b of this subsection furnish to such offeror a supplementary list showing all transfers since the date of the furnished list or, if one or more supplemental lists have already been furnished, from the date of the last such supplemental list so furnished.

7. All materials disseminated in connection with the tender offer, by the target company, or by persons acting in

concert with it, shall within two days after its first use, (i) be sent, by registered or certified mail, to the offeror at its principal executive office and (ii) be filed with the administrator.

Sec. 11. Chapter five hundred two (502), Code 1977, is amended by adding as section five hundred two point two hundred fifteen (502.215) the following new section:

502.215 NEW SECTION. DENIAL, SUSPENSION AND REVOCATION OF TENDER OFFER REGISTRATION.

1. The administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any tender offer registration statement if the administrator finds that the order is in the public interest and that at least one of the following conditions exists:

a. The tender offer registration statement is incomplete in any material respect or contains any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact.

b. Any provision of this Act or any rule, order or condition lawfully imposed under this Act has been willfully violated, in connection with the tender offer, by (i) the person filing the tender offer registration statement; (ii) any partner, officer or director of the offeror, or any person occupying a similar status or performing similar functions; (iii) any affiliate of the offeror; or (iv) any broker-dealer acting on behalf of the offeror.

c. The offer registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offer, but the administrator may not enter an order under this section on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section.

d. The applicant or registrant has failed to pay the proper filing fee; but the administrator may enter only a denial order under this subsection, and shall vacate any such order when the deficiency has been corrected.

2. The administrator may not institute a stop order proceeding against an effective tender offer registration statement on the basis of a fact known to the administrator when the tender offer registration statement became effective unless the proceeding is instituted within thirty days after effectiveness.

3. The administrator may issue a summary order postponing, suspending or denying the effectiveness of a tender offer registration statement pending final determination of any proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the offeror that the order has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of an opportunity for hearing to the offeror, may modify or vacate the order or extend it until final determination.

4. A stop order shall not be entered under any part of this section without compliance with the Iowa Administrative Procedure Act, except that a summary order may be issued under subsection three (3) of this section prior to notice and hearing as may be required by that Act.

5. The administrator may vacate or modify a stop order upon a finding that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

Sec. 12. Section five hundred two point four hundred seven (502.407), Code 1977, is amended to read as follows:

502.407 MISSTATEMENTS IN PUBLICITY. It is unlawful for any person to make or cause to be made, in any public report or press release, or in other information which is either made generally available to the public or used in opposition to a tender offer, any statement of a material fact relating to an issuer or made in connection with a tender offer which is, at the time and in the light of the circumstances under which it is made, false or misleading, if it is reasonably foreseeable that such statement will induce other persons to buy, sell or hold securities of the issuer.

Sec. 13. Section five hundred two point five hundred one (502.501), Code 1977, is amended to read as follows:

502.501 VIOLATION OF REGISTRATION AND RELATED REQUIREMENTS.

1. Any person who:

4 a. Violates section 502.201, section 502.208, subsection 12 or section 502.406, subsection 2, paragraph "b", or

2 b. Violates any material condition imposed under section 502.208, or

3 c. Offers or sells a security at any time when such person has committed a material violation of section 502.301, or

4 d. Commits a material violation of any order issued by the administrator under this chapter, shall be liable to the person purchasing the security offered or sold in connection with such violation, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at the legal rate from the date of payment, costs and reasonable attorneys' fees, less the amount of any income or distributions, in cash or in kind, received on the security, upon the tender of the security, or for damages if the purchaser no longer owns the security. Damages shall be the amount that would be recoverable upon a tender less

a. (1) The value of the security when the purchaser disposed of it and

b. (2) Interest on said value at the legal rate from the date of disposition. Any person on whose behalf an offering is made and any underwriter of the offering, whether on a best efforts or a firm commitment basis, shall be jointly and severally liable under this section, but in no event shall any underwriter be liable in any suit or suits authorized under this section for damages in excess of the total price at which the securities underwritten by it and distributed to the public were offered to the public. Tender requires only notice of willingness to exchange the security for the amount specified. Any notice may be given by service as in civil actions or by certified mail addressed to the last known address of the person liable.

2. Any person who violates section seven (7) of this Act shall be liable to the person selling the security to such violator, which seller may sue either at law or in equity to recover the security, costs and reasonable attorney's fees, plus any income or distributions, in cash or in kind, received by the purchaser thereon, upon tender of the consideration received, or for damages if the purchaser no longer owns the security. Damages shall be the excess of the value of the security when the purchaser disposed of it, plus interest at the legal rate from the date of disposition, over the consideration paid for the security. Tender requires only notice of willingness to pay the amount specified in exchange for the security. Any notice may be given by service as in civil actions or by certified mail to the last known address of

the person liable.

Sec. 14. Section five hundred two point five hundred two (502.502), subsection two (2), Code 1977, is amended to read as follows:

2. Any person who offers to purchase or purchases a security in violation of sections 502.401 or 502.404, the seller not knowing of the violation, and who fails to sustain the burden of proof that he, she or it did not know and in the exercise of reasonable care could not have known of the violation, shall be liable to the seller, who may sue either at law or in equity to recover the security, costs, and reasonable attorney's fees, plus any income or distributions, in cash or in kind, received by the purchaser thereon, upon tender of the consideration received, or for damages if the purchaser no longer owns the security. Damages shall be the excess of the value of the security when the purchaser disposed of it, plus interest at the legal rate from the date of disposition, over the consideration paid for the security. Tender requires only notice of willingness to pay the amount specified in exchange for the security. Any notice may be given by service as in civil actions or by certified mail to the last known address of the person liable.

Sec. 15. Section five hundred two point five hundred two (502.502), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. Any person who is aggrieved by a violation of section five hundred two point four hundred seven (502.407) of the Code may bring an action in the district court to enjoin the acts complained of and, upon proper showing, to require that correcting material be disseminated, and such person may be awarded costs and reasonable attorney's fees.

Sec. 16. Section five hundred two point six hundred ten (502.610), subsection four (4), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

4. An Except when made in connection with a tender offer, an offer to sell or to purchase is not made in this state when made by means of either of the following:

DIVISION IV

Sec. 17. Section five hundred two point one hundred two (502.102), subsection ten (10), paragraph f, subparagraph two (2), Code 1977, is amended to read as follows:

(2) Any stock split, ~~reverse stock split~~, other than a reverse stock split or security dividend payable with respect

to the securities of a corporation in the same or any other class of securities of such corporation, provided nothing of value, including the surrender of a right or an option to receive a cash or property dividend, is given by security holders for the security dividend.

Sec. 18. Section five hundred two point two hundred three (502.203), subsection thirteen (13), Code 1977, is amended to read as follows:

13. Any transaction incident to a vote by security holders of ~~an-issuer~~ a person or incident to a written consent or resolution of some or all security holders of ~~an-issuer~~ a person, pursuant to the articles of incorporation of such ~~issuer~~ person, or pursuant to the applicable corporate statute or other statute governing such ~~issuer~~ person, or pursuant to such ~~issuer's~~ person's partnership agreement, declaration of trust, or trust indenture, or pursuant to any agreement among security holders of such ~~issuer~~ person, on a reclassification of securities, reverse stock split, reorganization involving the exchange of securities, merger, consolidation, or sale of assets, in consideration, in whole or in part, of the issuance of securities of ~~the-issuer~~ such person or of any other person, if:

DIVISION V

Sec. 19. Section five hundred two point one hundred two (502.102), subsection two (2), paragraph a, Code 1977, is amended to read as follows:

a. Effecting transactions in a security exempted by section 502.202, subsections 1, 2, 3, four (4), six (6), 10, or 11, or a security issued by an industrial loan company licensed under chapter five hundred thirty-six A (536A), Code 1977;

Sec. 20. Section five hundred two point two hundred two (502.202), subsection one (1), Code 1977, is amended to read as follows:

1. Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; but this exemption shall not include any revenue obligation payable from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise, unless such payments are or will be made or unconditionally guaran-

ted by a person whose securities are exempt from registration under this chapter by (a) section 502.202, subsection 7 or subsection 8, or (b) subsection nine (9) of section five hundred two point two hundred two (502.202) of the Code, provided the issuer first files with the administrator a written notice specifying the terms of the offer and the administrator does not by order disallow the exemption within fifteen days thereafter.

Sec. 21. Section five hundred two point two hundred three (502.203), subsection two (2), paragraph c, Code 1977, is amended to read as follows:

c. The security was issued by an issuer which has a class of securities ~~currently~~ registered under ~~section-502.204~~ this chapter, or under chapter five hundred two (502) of the Code as it existed prior to January 1, 1976.

Sec. 22. Section five hundred two point two hundred three (502.203), subsection twelve (12), Code 1977, is amended to read as follows:

12. Any offer, but not a sale, of a security for which ~~a registration statements-have~~ statement has been filed under ~~both this chapter and the Securities Act of 1933~~ if no stop order or denial order is in effect and no proceeding is pending under ~~either law~~ this chapter.

Sec. 23. Section five hundred two point two hundred ten (502.210), subsection one (1), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

~~The aggregate offering price of all securities of the issuer which may be registered for sale in this state under section-502.207, as part of a single issue of equity securities, shall not exceed~~ Notwithstanding the provisions of section five hundred two point two hundred seven (502.207) of the Code, no securities may be registered under that section if the aggregate offering price of all securities of the issuer which will be offered or sold in this state, as part of a single issue of equity securities, in reliance upon the exemption from federal registration requirements provided by paragraph eleven (11) of subsection a of section three (3) of the federal Securities Act of 1933, as amended, exceeds the following amounts:

Sec. 24. This Act shall take effect January 1, 1979.

Approved April 27, 1978

CHAPTER 1187

MINORS IN BILLIARD HALLS

S. F. 2198

AN ACT repealing the prohibition against allowing minors in a billiard hall where beer is sold.

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

Section 1. Sections seven hundred twenty-five point thirteen (725.13) and seven hundred twenty-five point fourteen (725.14), Code 1977 Supplement, are repealed.

Sec. 2. This Act is effective July 1, 1978.*

Approved June 5, 1978

*According to enrolled Act

CHAPTER 1188

CHILD SEXUAL EXPLOITATION

S. F. 2205

AN ACT amending the criminal code revision to prohibit a person from photographing a child involved in certain prohibited sexual acts, and providing a penalty.

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

Section 1. Chapter seven hundred twenty-eight (728), Code 1977 Supplement, is amended by adding the following new section:

NEW SECTION. SEXUAL EXPLOITATION OF CHILDREN. A person commits a class C felony when he or she employs, uses, persuades, induces, entices, coerces, knowingly permits, or otherwise causes a child to engage in a prohibited sexual act or in the simulation of a prohibited sexual act if the person knows, has reason to know, or intends that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, or other print or visual medium.

Sec. 2. Section seven hundred twenty-eight point one (728.1), Code 1977 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. "Prohibited sexual act" means any of the following:

- a. A sex act as defined in section seven hundred two point seventeen (702.17) of the Code Supplement;
- b. An act of bestiality involving a child;

- c. Fondling or touching the pubes or genitals of a child;
 - d. Fondling or touching the pubes or genitals of a person by a child;
 - e. Sado-masochistic abuse of a child for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse;
 - f. Sado-masochistic abuse of a person by a child for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the abuse; or
 - g. Nudity of a child for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the nude child.
- Approved June 5, 1978

CHAPTER 1189
ARREST WARRANTS
H. F. 299

AN ACT relating to the confidentiality of documents filed for the purpose of obtaining a warrant for an arrest or a search.

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

Section 1. Chapter eight hundred four (804), Code 1977 Supplement, is amended by adding the following new section:

NEW SECTION. CONFIDENTIALITY. All information filed with the court for the purpose of securing a warrant for an arrest, including but not limited to a citation and affidavits, shall be a confidential record until such time as a peace officer has made the arrest and has made his or her return on the warrant. During the period of time that information is confidential, it shall be sealed by the court and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate, or another court employee, in the course of official duties.

Sec. 2. Chapter eight hundred eight (808), Code 1977 Supplement, is amended by adding the following new section:

NEW SECTION. CONFIDENTIALITY. All information filed with the court for the purpose of securing a warrant for a search, including but not limited to an application and affidavits, shall be a confidential record until such time as a peace officer has executed the warrant and has made return thereon.

During the period of time that information is confidential it shall be sealed by the court, and the information contained therein shall not be disseminated to any person other than a peace officer, magistrate, or another court employee, in the course of official duties.

Approved April 17, 1978

CHAPTER 1190
MONEY AND INTEREST

H. F. 2467

AN ACT relating to the authority, procedures, practices and transactions of persons who lend money or extend credit, and providing penalties.

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

Section 1. NEW SECTION. DEFINITIONS. For purposes of sections one (1) through ten (10) of this Act, unless the context otherwise requires:

1. "Red-lining" means the practice by which a financial institution may designate certain areas as unsuitable for the making of mortgage loans and reject applications for mortgage loans or vary the terms of a mortgage loan upon property within that area because of the prevailing income, racial or ethnic characteristics of the area, or because of the age of the structures in the area.

2. "Mortgage loan" means a loan for the purchase, construction, improvement or rehabilitation of residential property containing or to contain four or fewer family dwelling units in which the property is used as security for the loan.

3. "Financial institution" means any bank, credit union, insurance company, mortgage banking company or savings and loan association, industrial loan company, or like institution which operates or has a place of business in this state.

4. "Reporting financial institution" means a financial institution with an excess of ten million dollars in assets which during a reporting period accepts mortgage loan applications from persons in any Iowa city with a population in excess of fifty thousand as determined in the most recent regular census or in any standard metropolitan statistical area.

5. "Vary the terms of a mortgage loan" includes, but is not limited to the following:

a. Requiring a greater than average down payment than is usual for the particular type of mortgage loan involved.

b. Requiring a shorter period of amortization than is usual for the particular type of mortgage loan involved.

c. Charging a higher interest rate or higher loan origination fees than is usual for the particular type of mortgage loan involved.

d. An unreasonable underappraisal of real estate or item of property offered as security.

Sec. 2. NEW SECTION. DISCRIMINATORY--REAL ESTATE MORTGAGES. It is a discriminatory practice for any financial institution accepting mortgage loan applications to engage in the practice of red-lining as defined in section one (1) of this Act.

Sec. 3. NEW SECTION. DISCRETION OF FINANCIAL INSTITUTION. Nothing contained in sections one (1) through ten (10) of this Act shall preclude a financial institution from applying economically sound underwriting practices in contemplation of any mortgage loan to any person. Such practices shall include but are not limited to the following:

1. The willingness and the financial ability of the borrower to repay the mortgage loan.

2. The appraised value of any real estate or other item of property proposed as security for any mortgage loan.

3. Diversification of the financial institution's investment portfolio.

Sec. 4. NEW SECTION. DISCLOSURE. Each reporting financial institution accepting an application for a mortgage loan shall:

1. Maintain a record of mortgage loan applications by census tract.

2. Annually make a report based on the mortgage loan application records which shall:

a. State the total number of mortgage loan applications filed by census tract.

b. Clearly show the total number of mortgage loans which were approved and which were not approved by census tract.

3. The report required by this section shall be placed on file with the Iowa housing finance authority and shall be available to the public.

4. In accordance with subsections one (1), two (2) and three (3) of this section, the superintendent of banking, the auditor of state, the administrator of the credit union

department, and the commissioner of insurance shall establish rules for the enforcement of the provisions of this section. Rules established pursuant to sections one (1) through ten (10) of this Act shall permit a financial institution which is required to file a disclosure report pursuant to the federal home mortgage disclosure act of 1975, 12 U.S.C. 2801 to 2809, and the regulations promulgated under that act, to file a copy of that report with the Iowa housing finance authority. If a financial institution is not required to file a disclosure report pursuant to the federal home mortgage disclosure act, the financial institution shall file with the Iowa housing finance authority a report that conforms in form and substance with the requirements of the federal home mortgage disclosure act.

Reporting periods shall be established by rule and shall be uniform for all financial institutions.

The director of the Iowa housing finance authority or the director's designee shall advise and assist the superintendent of banking, the commissioner of insurance, the administrator of the credit union department, and the auditor of state on the establishment of rules for the enforcement of this section and shall encourage uniformity among the administrator's rule promulgation to the maximum extent practical.

Sec. 5. NEW SECTION. AGENCY TO ADMINISTER. Sections two (2), and four (4) of this Act shall be administered and enforced by the following agencies:

1. The superintendent of banking or the superintendent's designee shall be responsible for enforcing those sections in regard to all banks and mortgage banking companies.

2. The auditor of state or a designee shall be responsible for enforcing those sections in regard to all savings and loan associations pursuant to chapter five hundred thirty-four (534) of the Code and all persons licensed under chapter five hundred thirty-six A (536A) of the Code.

3. The commissioner of insurance or the commissioner's designee shall be responsible for enforcing those sections pursuant to chapter five hundred five (505) of the Code in regard to all insurance companies.

4. The administrator of the credit union department or a designee shall be responsible for enforcing those sections in regard to all credit unions.

Sec. 6. NEW SECTION. AGGRIEVED PARTY. Any person who has been aggrieved as a result of a violation of sections

one (1) through ten (10) of this Act may bring an action in the district court of the county in which the violation occurred or in the county where the financial institution involved is located.

Upon a finding that a financial institution has committed a violation of either section two (2), or four (4) of this Act, the court may award actual damages, court costs and attorney fees.

Sec. 7. NEW SECTION. CRIMINAL PENALTY. Any person who knowingly engages in a practice which violates the provisions of section two (2) or four (4) of this Act is guilty of a serious misdemeanor.

Sec. 8. NEW SECTION. CIVIL PENALTY. Any person who in bad faith fails to comply with the provisions of sections one (1) through ten (10) of this Act, is subject to punitive damages not to exceed one thousand dollars in addition to actual damages as set forth in section six (6) of this Act.

Sec. 9. The Code editor is directed to incorporate sections one (1) through eight (8) of this Act as a separate chapter of the Code.

Sec. 10. The director of the Iowa housing finance authority shall report to the Iowa general assembly in February of 1980, an analysis of the nature and status of the disclosure reports filed pursuant to section four (4) of this Act.

The director's report shall also include but is not limited to an analysis of the financial needs of economically depressed urban residential areas, and recommendations for future action to insure the economic health of urban residential areas.

Sec. 11. Section five hundred thirty-five point two (535.2), Code 1977, is temporarily, except as otherwise specifically provided in section twenty-six (26) of this Act, amended commencing on the effective date of this Act and until July 1, 1979, to read as follows:

535.2 RATE OF INTEREST.

1. Except as provided in subsection 2 hereof, the rate of interest shall be five cents on the hundred by the year in the following cases, unless the parties shall agree in writing for the payment of interest at a rate not exceeding nine-cents-on-the-hundred-by-the-year the rate permitted by subsection three (3) of this section:

- a. Money due by express contract.
- b. Money after the same becomes due.
- c. Money loaned.

d. Money received to the use of another and retained beyond a reasonable time, without the owner's consent, express or implied.

e. Money due on the settlement of accounts from the day the balance is ascertained.

f. Money due upon open accounts after six months from the date of the last item.

g. Money due, or to become due, where there is a contract to pay interest, and no rate is stipulated.

2. Any domestic or foreign corporation ~~or~~, and any real estate investment trust as defined in section 856 of the Internal Revenue Code, and any person purchasing securities as defined in chapter 502 on credit from a broker or dealer registered or licensed under chapter 502 or under the Security Exchange Act of 1934, 48 Stat. 881, 15 United States Code 78A, as amended, and any person borrowing money in the principal amount of two hundred thousand dollars or more for business purposes, and any person borrowing money in the principal amount of five hundred thousand dollars or more for agricultural purposes, may agree in writing to pay any rate of interest in excess of the rate ~~prescribed in subsection 4-hereof~~ permitted by this section, and no such corporation or real estate investment trust or person so agreeing in writing shall plead or interpose the claim or defense of usury in any action or proceeding.

3. a. The maximum lawful rate of interest which may be provided for in any written agreement for the payment of interest entered into during any calendar quarter commencing on or after July 1, 1978, shall be two percentage points above the monthly average ten-year constant maturity interest rate of United States government notes and bonds as published by the board of governors of the federal reserve system for the calendar month second preceding the first month of the calendar quarter during which the maximum rate based thereon will be effective, rounded to the nearest one-fourth of one percent per year.

On or before the twentieth day of March, June, September and December of each year the superintendent of banking shall determine the maximum lawful rate of interest for the following calendar quarter as prescribed herein, and shall cause such rate to be published, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general circulation published in Polk county, prior to the first day

of the following calendar month. Such maximum lawful rate of interest shall be effective on the first day of the calendar month following publication. As soon as practicable after the effective date of this Act, the superintendent of banking shall determine and publish the maximum lawful rate pursuant to this paragraph for the third quarter of 1978, which maximum rate shall be effective upon publication thereof. The determination of the maximum lawful rate of interest by the superintendent of banking shall be exempt from the provisions of chapter seventeen A (17A) of the Code.

b. Any rate of interest specified in any written agreement providing for the payment of interest shall, if such rate was lawful at the time the agreement was made, remain lawful during the entire term of the agreement, including any extensions or renewals thereof, for all money due or to become due thereunder including future advances, if any.

c. Any written agreement for the payment of interest made pursuant to a prior written agreement by a lender to lend money in the future, either to the other party to such prior written agreement or a third party beneficiary of such prior agreement, may provide for payment of interest at the lawful rate of interest at the time of the execution of the prior agreement regardless of the time at which the subsequent agreement is executed.

d. Any contract, note or other written agreement providing for the payment of a rate of interest permitted by this subsection which contains any provisions providing for an increase in the rate of interest prescribed therein shall, if such increase could be to a rate which would have been unlawful at the time the agreement was made, also provide for a reduction in the rate of interest prescribed therein, to be determined in the same manner and with the same frequency as any increase so provided for.

4. Notwithstanding the provisions of subsection three (3) of this section, with respect to any agreement which was executed prior to the effective date of this Act and which contained a provision for the adjustment of the rate of interest specified in that agreement, the maximum lawful rate of interest which may be imposed under that agreement shall be nine cents on the hundred by the year, and any excess charge shall be a violation of section five hundred thirty-five point four (535.4) of the Code.

5. This section shall not apply to any loan which is subject to the provisions of section six hundred eighty-two point forty-six (682.46) of the Code.

Sec. 12. Chapter five hundred thirty-five (535), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new section:

NEW SECTION. LOAN CHARGES LIMITED.

1. As used in this section, the term "loan" means any money loaned to a borrower who furnishes, as security for all or part of the loan, a mortgage on real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower.

2. The assessment and collection in connection with a loan of a loan origination fee, closing fee, commitment fee or similar charge is prohibited. If any lender receives any amount as a loan origination fee, closing fee, commitment fee or similar charge, or any combination thereof, which exceeds the amount permitted by this section, the borrower shall have the right to recover that charge, plus attorney fees and court costs incurred in any action necessary to effect such recovery.

Any costs charged to a borrower, associated with a loan, shall not exceed actual costs which shall be disclosed to the borrower. Such costs may only include one or more of the following:

- a. Credit reports.
- b. Appraisal fees.
- c. Attorney's opinions.
- d. Abstracting.
- e. County recorder's fees.
- f. Inspection fees.
- g. Mortgage guarantee insurance charge.
- h. Surveying of property.
- i. Termite inspection.

The lender shall not charge the borrower for the cost of revenue stamps or real estate commissions which are paid by the seller.

3. A lender shall not, as a condition of making a loan as defined in this section, require the borrower to place money, or to place property other than that which is given as security for the loan, on deposit with or in the possession or control of the lender or some other person if the effect

is to increase the yield to the lender with respect to that loan; provided that this subsection shall not prohibit a lender from requiring the borrower to deposit money without interest with the lender in an escrow account for the payment of insurance premiums, property taxes and special assessments payable by the borrower to third persons. Any lender who requires an escrow account shall not violate the provisions of paragraph a of subsection one (1) of section five hundred seven B point five (507B.5) of the Code.

4. If any lender receives interest either in a manner or in an amount which is prohibited by subsection three (3) of this section, the borrower shall have the right to recover all amounts collected or earned by the lender, whether or not from the borrower, in violation of this section, plus attorney fees, plus court costs incurred in any action necessary to effect such recovery.

5. The provisions of this section shall not apply to any loan which is subject to the provisions of section six hundred eighty-two point forty-six (682.46) of the Code, nor shall it apply to origination fees, administrative fees, commitment fees or similar charges paid by one lender to another lender if these fees are not ultimately paid either directly or indirectly by the borrower who occupies or will occupy the dwelling.

6. This section is repealed effective July 1, 1979.

Sec. 13. Chapter five hundred thirty-five (535), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new section:

NEW SECTION. PREPAYMENT PENALTIES ON LOANS SECURED BY REAL ESTATE MORTGAGES PROHIBITED.

1. As used in this section:

a. "Loan" means money loaned to a borrower who furnishes, as security for all or any part of the loan, a mortgage on real property which is a single-family or a two-family dwelling to be occupied by the borrower or money loaned to a borrower for the purpose of purchasing agricultural land where the borrower furnishes a mortgage on the real property to be purchased as security for the loan.

b. "Lender" means any state or federally chartered bank, savings and loan association or credit union, any industrial loan company, any insurance company, or any other person or entity which makes a loan, as defined in this section.

2. Whenever a borrower under a loan repays the full amount of the loan in connection with a transfer of ownership of the real property given as security for that loan, the lender shall not receive an amount in payment of interest which is greater than the amount determined by applying the rate of interest agreed upon by the lender and the borrower to the unpaid balance of the loan for a period of time during which the borrower had the use of the money loaned; and the lender shall not impose any penalty or other charge in addition to the amount of interest due as a result of the repayment of that loan at a date earlier than is required by the terms of the loan agreement. A lender may, however, require advance notice of not more than thirty days of a borrower's intent to repay the full amount of a loan at a date earlier than is required by the terms of the loan agreement.

3. If any lender receives an amount of interest greater than permitted by subsection two (2) of this section, or imposes any penalty or other charge prohibited by subsection two (2) of this section, the borrower shall have the right to recover all amounts paid the lender which are in excess of the amounts permitted by subsection two (2) of this section, plus attorney's fees and court costs incurred in any action necessary to effect such recovery.

Sec. 14. Section five hundred twenty-four point nine hundred five (524.905), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new subsection:

NEW SUBSECTION. If a customer elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the state bank shall be governed by section thirteen (13) of this Act.

Sec. 15. Section five hundred thirty-three point sixteen (533.16), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a member elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or a two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the credit union shall be governed by section thirteen (13) of this Act.

Sec. 16. Section five hundred thirty-four point twenty-one (534.21), subsection ten (10), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred thirty-three (133), section seven (7), is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

10. ADVANCE INTEREST ON PREPAYMENTS. Real estate loans on a single-family or a two-family dwelling or agricultural land may be repaid in part or in full at any time subject to the provisions of section thirteen (13) of this Act. Real estate loans on ~~one-to~~ three and four family dwellings may be repaid in part or in full at any time, excepting that the association may charge not to exceed six months advance interest on that part of the aggregate amount of all prepayments made on such loan in any twelve-month period which exceeds twenty percent of the original principal amount of the loan; and may charge any negotiated rate on other loans, except the real estate loans on single-family and two-family dwellings or agricultural land previously referred to in this subsection.

Sec. 17. Section five hundred thirty-six A point twenty-three (536A.23), subsection one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, by adding the following temporary new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a borrower elects to repay a loan secured by a mortgage or deed of trust upon real property which is a single-family or two-family dwelling or agricultural land at a date earlier than is required by the terms of the loan, the licensee shall be governed by section thirteen (13) of this Act.

Sec. 18. Section five hundred thirty-four point nineteen (534.19), subsection six (6), Code 1977, is amended to read as follows:

6. PROPERTY IMPROVEMENT LOANS. To make loans for maintenance, repair, landscaping, modernization, furniture and fixtures, improvement and equipment, with or without security provided that no such loan without security shall exceed ten thousand dollars, and provided further that not in excess of twenty percent of the assets of the association shall be so invested, said twenty percent to be exclusive of the forty percent of assets power set out in section 534.21 hereof. ~~Such loans, other than consumer loans as defined~~

~~in the Iowa consumer credit code, shall be amortized to mature in not to exceed eight years.~~ The provisions of the Iowa consumer credit code shall apply to consumer loans made by a savings and loan association and a provision of that code shall supersede any conflicting provision of this chapter with respect to a consumer loan. Loans made pursuant to this subsection shall be for terms not exceeding fifteen years and shall not be made at interest rates in excess of rates allowed for consumer loans.

Sec. 19. Section five hundred thirty-six A point twenty-three (536A.23), subsection one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

1. Charge, receive or collect interest at a rate ~~greater than that authorized by section 535.2~~ exceeding nine cents on the hundred by the year, except that the interest may be computed when the note is made on the full amount of the cash advanced on the loan from the date of the note to the date of the final installment thereof, and the interest so computed may be included in the note, notwithstanding any agreement to pay the entire amount in installments; or the interest may be computed on the amount of the note and discounted or collected in advance when the loan is made, notwithstanding any agreement to pay the entire amount in installments. If the note is repayable in other than equal monthly installments, the interest may be an amount computed on the basis of the effective rates permitted as provided above; provided, however there shall be no compounding of interest and when an interest rate as authorized herein is advertised, or negotiated for with a prospective borrower, with intent that it be computed by either of the two methods authorized herein, they being the "add on" method or the "discount" method, in such case such rate shall be further described as to the method of computation to be used, but interest computed by either method shall be stated to the borrower as provided in section 537.3210.

The limitation on interest rate which is contained in this subsection shall not apply to any loan in which the borrower is a corporation or investment trust or any other person who is referred to in subsection two (2) of section five hundred thirty-five point two (535.2) of the Code.

Sec. 20. Chapter five hundred thirty-seven (537), article two (2), Code 1977, is temporarily amended, commencing on

the effective date of this Act and until July 1, 1979, by adding the following new section:

NEW SECTION. MOBILE HOME LOANS. Notwithstanding the maximum finance charges specified in this chapter of the Code, the maximum finance charge which may be charged for money loaned to a borrower who furnishes as security for all or part of the loan, a mobile home occupied or to be occupied by the borrower as a dwelling shall be as follows:

1. For a new mobile home, three percentage points per year above the usury rate in effect under section five hundred thirty-five point two (535.2) of the Code on the day the loan is made, calculated according to the actuarial method, on the unpaid balance of the amount financed.

2. For a used mobile home, five percentage points per year above the usury rate in effect under section five hundred thirty-five point two (535.2) of the Code on the day the loan is made, calculated according to the actuarial method, on the unpaid balance of the amount financed.

Sec. 21. Section five hundred thirty-seven point one thousand three hundred one (537.1301), subsection fifteen (15), paragraph b, subparagraph two (2), Code 1977, is amended to read as follows:

(2) A loan secured by an interest in land if the security interest is bona fide and not for the purpose of circumvention or evasion of this chapter and the finance charge ~~does not exceed twelve percent per year,~~ calculated according to the actuarial method on the assumption that the debt will be paid according to the agreed terms and will not be paid before the end of the agreed term, does not exceed the rate of interest permitted under chapter five hundred thirty-five (535) of the Code.

Sec. 22. Section five hundred thirty-seven point one thousand three hundred one (537.1301), subsection twenty (20), paragraph a, subparagraph one (1), Code 1977, is temporarily amended, commencing on the effective date of this Act and until July 1, 1979, to read as follows:

(1) Interest or any amount payable under a point, discount or other system of charges, however denominated, except that ~~with respect to a consumer loan secured by a first lien on a dwelling of the debtor given to finance the acquisition of that dwelling, points, consisting of a charge paid in cash at the time of commitment or closing of a loan transaction or~~ with respect to a consumer credit sale of goods or

services, a cash discount of five percent or less of the stated price of goods or services which is offered to the consumer for payment by cash, check or the like either immediately or within a period of time, shall not be part of the finance charge for the purpose of determining maximum charges pursuant to section 537.2401 ~~and chapters 5247-5347 and 535~~. A cash discount permitted by this subparagraph shall not be considered part of the finance charge for the purpose of determining compliance with Truth in Lending pursuant to section 537.3201 if it is properly disclosed as required by the Truth in Lending Act as amended to and including October 28, 1975 and regulations issued pursuant to that Act as so amended prior to October 28, 1975.

Sec. 23. Chapter five hundred thirty-three (533), Code 1977, is amended by adding the following temporary new section:

NEW SECTION. Each credit union which on June 28, 1978, the date on which the supreme court of the state of Iowa held share drafts to be illegal, had in operation third party demand type accounts for its members, whether or not interest bearing, and commonly known or referred to as share draft accounts, may continue to provide that service to its members until terminated by order of the superintendent of banking or the administrator of the credit union department as provided in this section; provided, however, that as a condition of providing such service the credit union shall comply with the reserve requirements established pursuant to this section.

Commencing on the effective date of this Act the superintendent of banking, and commencing on January 1, 1979, the administrator of the credit union department, shall have the continuing duty to provide by rule for legal reserve requirements with respect to credit unions maintaining third party demand type accounts which are subject to this section in such amounts as may be necessary to protect the financial soundness of those credit unions and their members. Such legal reserves shall be in addition to the reserve requirements established by or under the authority of section five hundred thirty-three point seventeen (533.17) of the Code. However, any such rule shall not require a reserve amount for any credit union which for any calendar month exceeds the quotient of one hundred twenty-five percent of the aggregate amount actually paid by the credit union during the preceding calendar month in satisfaction of drafts issued by members against third party demand type accounts divided by the number of

days during that preceding calendar month on which payments in satisfaction of share drafts actually were made by the credit union. Reserves shall be held in an account established for that purpose in the corporate central credit union.

Until January 1, 1979, the superintendent of banking, and commencing January 1, 1979, the administrator of the credit union department, shall provide by rule for the discontinuance of the use of third party demand type accounts in an orderly manner and according to such procedures as shall protect the financial integrity of credit unions and their members. Third party demand type accounts in credit unions shall be terminated in this state effective April 15, 1979, but no rule issued by the superintendent of banking or the administrator of the credit union department shall require the termination of such accounts prior to February 1, 1979.

Sec. 24. The legislative council shall create a study committee consisting of such number of members as specified by the legislative council who shall represent both houses and political parties of the general assembly. The senate members shall be appointed by the majority floor leader of the senate and the house members shall be appointed by the speaker of the house. The study committee shall undertake a study for the purpose of determining the need for legislation relating to share drafts of credit unions. The study committee shall make periodic reports to the legislative council and a final report to the general assembly convening in the year 1979.

Sec. 25. Notwithstanding section twenty-seven (27) of this Act, sections one (1) through ten (10) of this Act shall take effect January 1, 1979.

Sec. 26. It is the intent of the general assembly in enacting this Act that the provisions of this Act except sections one (1) through ten (10) of this Act and except subsection two (2) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11) of this Act and except paragraphs b and c of subsection three (3) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11) of this Act and except sections eighteen (18) and twenty-one (21) of this Act shall have temporary effect only, and that the laws of this state as they existed prior to amendment by the provisions of this Act other than the provisions contained in sections

one (1) through ten (10), and in subsection two (2) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11), and in paragraphs b and c of subsection three (3) of section five hundred thirty-five point two (535.2) of the Code as amended by section eleven (11), and in sections eighteen (18) and twenty-one (21) of this Act, shall be the laws of this state on and after July 1, 1979.

Sec. 27. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Waterloo Courier, a newspaper published in Waterloo, Iowa, and in The Hawk Eye, a newspaper published in Burlington, Iowa.

Approved July 26, 1978

I hereby certify that the foregoing Act, House File 2467, was published in The Waterloo Courier, Waterloo, Iowa, on July 28, 1978, and republished on August 2, 1978, and in The Hawk Eye, Burlington, Iowa, on July 28, 1978, and republished on August 2, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1190A

SOYBEAN PROMOTION FUND

S. F. 2020

AN ACT relating to the remission of excess funds from the soybean promotion fund.

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

Section 1. Section one hundred eighty-five point twenty-nine (185.29), Code 1977, is amended to read as follows:

185.29 REMISSION OF EXCESS FUNDS. After the costs of elections, referendum, necessary board expenses and administrative costs have been paid, at least seventy-five percent of the remaining funds in the soybean promotion fund shall be remitted to such organizations as the Iowa soybean association, and the American soybean association ~~and the American soybean institute~~ for market development activities to include developing and expanding new markets for soybeans and soybean products worldwide. The funds can only be used for research, promotion, and education in co-operation with agencies who are equipped to do this kind of work.

Sec. 2. Notwithstanding the provisions of section one hundred eighty-five point twenty-nine (185.29) of the Code, not more than three hundred thousand dollars of the funds in the soybean promotion fund may be made available for relocating the American soybean association within the state of Iowa.

Sec. 3. Any funds allocated by this Act that are not obligated or encumbered by January 1, 1980, shall revert to the Iowa soybean promotion fund.

Approved August 2, 1978

This Act was passed by the G.A. before July 1, 1978.

CHAPTER 1190B
RECORDING INSTRUMENTS

S. F. 397

AN ACT to increase the fee for recording instruments.

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

Section 1. Section three hundred thirty-five point fourteen (335.14), Code 1977, is amended to read as follows:

335.14 FEES. The recorder shall charge and collect the following fees:

1. For recording each instrument, ~~two~~ three dollars and ~~fifty-cents for the first~~ each page or fraction thereof.

~~2. For each additional page or fraction thereof, two dollars.~~

3 2. The minimum fee for all deeds and real property mortgages shall be ~~two~~ three dollars and ~~fifty-cents~~.

Approved August 2, 1978

This Act was passed by the G.A. before July 1, 1978.

**SPECIAL ACTS
JOINT RESOLUTIONS
RULES OF CIVIL PROCEDURE
AND
RULES OF CRIMINAL PROCEDURE**

SPECIAL ACTS
JOINT RESOLUTIONS
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CHAPTER 1191
PRIVACY TASK FORCE

H. F. 207

AN ACT creating a citizens privacy task force, prescribing its powers and duties and making an appropriation.

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

Section 1. TASK FORCE CREATED. There is created a citizens privacy task force which shall be composed of five members. Members shall be appointed by the governor and shall be chosen from the general public, however two members shall be knowledgeable in the area of privacy and confidentiality. Not more than three of the members shall be from the same political party. Members shall serve at the pleasure of the governor. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. Members shall be reimbursed for actual and necessary expenses incurred in discharging their official duties.

Sec. 2. DUTIES. The task force shall:

1. Study state statutes, rules and proposed legislation relating to privacy and confidentiality.
2. Investigate actual state practice in administering and enforcing state and federal privacy and confidentiality statutes and rules.
3. Evaluate the need for more coordination between the state and federal governments in implementing state and federal

privacy and confidentiality statutes and rules.

4. Project future needs for a state response to federal privacy and confidentiality statutes and rules and for coordination between state and federal statutes and rules.

Sec. 3. POWERS OF TASK FORCE. The task force may:

1. Hold hearings as necessary to discharge its responsibilities.

2. Employ an executive director and a secretary who shall be exempt from the provisions of chapter nineteen A (19A) of the Code and who shall receive compensation as determined by the task force.

3. Issue subpoenas enforceable in the district court to compel the appearance of witnesses and records as necessary to discharge its duties.

Sec. 4. MEETINGS--REPORT. The commission shall hold six meetings. The commission shall submit a preliminary report of its progress and findings to the general assembly not later than February 15, 1979 and shall submit a final report of its findings, projections and recommendations to the general assembly not later than January 1, 1980.

Sec. 5. APPROPRIATION. There is appropriated from the general fund of the state to the office of the governor commencing July 1, 1978 and ending January 1, 1980 the sum of thirty thousand (30,000) dollars, or so much thereof as may be necessary, for the employment of personnel pursuant to section three (3) of this Act and for other expenses which may be incurred in carrying out the provisions of this Act, including payment of actual and necessary expenses to task force members.

Sec. 6. This Act is repealed January 1, 1980.

Approved June 2, 1978

CHAPTER 1192
VALLEY BANK BUILDING

S. F. 2230

AN ACT directing the executive council to sell the Valley Bank building.

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

Section 1. The executive council shall sell the valley bank building pursuant to the provisions of this Act and under such terms as shall otherwise be determined by the executive council. The executive council shall accept sealed bids after advertising the sale of the valley bank building in a manner determined by the executive council. The executive council may accept a bid which represents a fair price based upon the appraisal of the valley bank building and considering the sale prices of other buildings sold within the geographic area where the valley bank building is located. The effective date of the sale shall be determined by the executive council. The office of the attorney general shall provide such legal assistance as may be required by the executive council in carrying out the provisions of this Act. Funds received because of the sale of the valley bank building shall be deposited in the general fund of the state.

Approved May 9, 1978

CHAPTER 1193
EASEMENT AT WOODWARD

H. F. 571

AN ACT relating to granting an easement at the Woodward Hospital-school.

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

Section 1. The commissioner of social services may, subject to the approval of the executive council, grant an easement to the northern natural gas company in order that natural gas lines may be installed and maintained to serve the Woodward hospital-school, the city of Woodward and the city of Madrid.

Approved March 10, 1978

CHAPTER 1194

BLACK HAWK COUNTY

H. F. 2464

AN ACT to legalize proceedings of the Black Hawk county board of supervisors relating to the purchase of land.

WHEREAS, the Black Hawk County Board of Supervisors on the 27th day of March, 1978, passed a resolution authorizing the purchase of property legally described as:

Lots Nos. Eight (8) and Nine (9), except the Northwesterly Thirty (30) feet of said Lots, in Block No. Twenty-six (26) on the East Side of the Cedar River in the City of Waterloo, Black Hawk County, Iowa,

and

WHEREAS, said Board authorized the use of Federal Revenue Sharing Funds pursuant to the authority of Section 345.1 of the Code of Iowa to pay the purchase price of Sixty-Thousand and No/100 Dollars (\$60,000.00) to the property owners, and

WHEREAS, said Board did on the 10th day of April, 1978, pay said monies, but through inadvertance failed to hold a public hearing two weeks before said purchase, as required by Section 345.1 of the Code of Iowa, and

WHEREAS, it is not practical to rescind the purchase agreement because of all parties' reliance on the finality of the sale, and the convening of a hearing at this point is of questionable legality and the passage of a legalizing act would correct the matter; NOW THEREFORE,

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

Section 1. The requirement that a public hearing be held before the Black Hawk County Board of Supervisors could authorize the purchase of the property in question is hereby waived as to this purchase only, the actions of said Board are legalized, validated and confirmed, and said purchase is approved.

Approved June 2, 1978

CHAPTER 1195

CERRO GORDO COUNTY LEGALIZING ACT

H. F. 2315

AN ACT to legalize proceedings taken by the board of supervisors of Cerro Gordo county relating to the sale of certain properties.

WHEREAS, the board of supervisors of Cerro Gordo county acquired certain property by virtue of tax deeds; and

WHEREAS, the board of supervisors of Cerro Gordo county subsequently offered these properties for sale as provided in section five hundred sixty-nine point eight (569.8) of the Code on or after July 1, 1975 and on or before September 30, 1977; and

WHEREAS, the board of supervisors complied with all the provisions of the law, except the notice was published only once and not twice, on different dates, in a newspaper of general circulation in the county as provided by law; and

WHEREAS, the lack of a second publication of notice in connection with each of these sales of property acquired by virtue of a tax deed has raised some doubt as to the validity of the sales of the properties and such doubts may raise an issue concerning the merchantability of the title to said properties sold on or after July 1, 1975, and on or before September 30, 1977, and said acts should be legalized and the matter once and for all put to rest; NOW THEREFORE,

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

Section 1. That all proceedings taken by the board of supervisors of Cerro Gordo county pertaining to the sale of property acquired by virtue of tax deeds and sold on or after July 1, 1975, and on or before September 30, 1977, where the board of supervisors failed to publish a second notice of time and place and date of sale as provided by law are validated, legalized and confirmed, and shall constitute a valid, legal and binding sale of those properties sold on or after July 1, 1975, and on or before September 30, 1977, by the board of supervisors of Cerro Gordo county.

Approved June 5, 1978

CHAPTER 1196

CHARTER OAK LEGALIZING ACT

S. F. 2253

AN ACT to legalize proceedings taken by the city of Charter Oak relating to the letting of certain contracts.

WHEREAS, the city council of the city of Charter Oak let a contract for the construction of tennis courts situated within the city of Charter Oak; and

WHEREAS, the city council of the city of Charter Oak complied with all of the provisions of the law, except that the city council failed to give proper notice of the date, place and time of the bid openings by proper publication prior to the date of the acceptance of the same; and

WHEREAS, some doubt has arisen as to the validity of the contract executed between the city of Charter Oak and L and H Construction Inc., for the construction of the tennis courts and said act and contract should be legalized and the matter once and for all be put to rest; NOW THEREFORE,

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

Section 1. That all proceedings taken by the city council of the city of Charter Oak, pertaining to the letting of a contract for the construction of tennis courts where the city council failed to properly publish notice of the time, place and date of the bid opening, are validated, legalized and confirmed and shall constitute a valid, legal and binding contract for the construction of said tennis courts.

Approved June 5, 1978

CHAPTER 1197

CHICKASAW COUNTY LEGALIZING ACT

H. F. 2454

AN ACT to legalize proceedings taken by the board of supervisors of Chickasaw county, relating to the sale of certain properties.

WHEREAS, the Board of Supervisors of Chickasaw County acquired certain property by virtue of various Deeds, and

WHEREAS, the Board of Supervisors of Chickasaw County subsequently offered these properties for sale as provided in Section 332.3-(13) of the Code of Iowa, on August 25, 1975, and

WHEREAS, the Board of Supervisors complied with all of the provisions of the Law, except that the Board failed to publish Notice of the Date, Place and Time of the sale not less than Fifteen (15) days nor more than Twenty-Five (25) days prior to the date of the sale, and

WHEREAS, some doubt has arisen as to the validity of the sales of such properties and such doubts may raise an issue concerning the merchantability of the Title to the properties sold on August 25, 1975, and said Acts should be legalized and the matter once and for all be put to rest; NOW THEREFORE,

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

Section 1. That all proceedings taken by the Board of Supervisors of Chickasaw County pertaining to the sale of property acquired by virtue of various deeds and sold on August 25, 1975, where the Board of Supervisors failed to publish Notice of the Time, Place and Date of the sale not less than Fifteen (15) days nor more than Twenty-Five (25) days prior to the date of the sale are validated, legalized, and confirmed and shall constitute a valid, legal and binding sale of those properties sold on August 25, 1975, by the Board of Supervisors of Chickasaw County.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Des Moines Register, a newspaper published in Des Moines, Iowa, and in The New Hampton Tribune, a newspaper published in New Hampton, Iowa, without expense to the state.

Approved June 5, 1978

I hereby certify that the foregoing Act, House File 2454, was published in The Des Moines Register, Des Moines, Iowa on July 3, 1978 and in the New Hampton Tribune, New Hampton, Iowa on July 6, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1198

FREMONT-MILLS SCHOOL LEGALIZING ACT

H. F. 2383

AN ACT to legalize and validate the procedures whereby the Fremont-Mills community school district in the counties of Fremont and Mills contracted for the sale of tracts of real estate and the contracts entered into with the respective purchasers.

WHEREAS, the electors of Fremont-Mills Community School District in Fremont and Mills Counties, State of Iowa, at their regular school election held September 10, 1974, authorized sale by public auction of the following described parcels of real estate situated wholly in Fremont County, Iowa, to-wit:

Parcel 1: Lot Two (2) in Block Seven (7) in Randolph, Iowa, situated in the Southeast Quarter of the Southwest Quarter (SE. 1/4 SW 1/4) of Section Nine (9), Township Seventy (70) North, Range Forty-One (41) West of the 5th P.M.

Parcel 2: Lots Eleven (11) and Twelve (12) in Block "U" in the Town of Thurman, Iowa, situated in and being a part of the North Half of the Southeast Quarter (N. 1/2 SE. 1/4) of Section Thirty-Five (35), Township Seventy (70) North, Range Forty-Three (43) West of the 5th P.M.;

and

WHEREAS, said property was not appraised by three resident free holders appointed in the manner prescribed by Section 297.22, Code of Iowa, 1977, although Parcel 1 was informally appraised by a resident free holder at the request of the District at a value of \$5,000.00 to \$7,000.00; and

WHEREAS, the Board of Directors advertised for bids on said property, but through error or misunderstanding notice of public auction was published in one publication only of the Beacon-Enterprise, a newspaper of general circulation within the District, rather than by two consecutive publications in said newspaper as required by Section 297.23, Code of Iowa, 1977; and

WHEREAS, said parcels were sold at public auction on November 5, 1977, at which there was competitive bidding after one published notice thereof in the November 2, 1977 issue of the Beacon-Enterprise and after substantial handbill advertising by the auctioneer; and

WHEREAS, contracts of sale were entered into with the high bidders on the parcels offered as follows:

<u>Parcel</u>	<u>Name of Purchaser</u>	<u>Consideration</u>
1	Albert Pearson	\$ 8,190.00
2	Dan Gold	6,070.00

which said bids and contracts were accepted by the Board of Directors of the Fremont-Mills Community School District on November 23, 1977; and

WHEREAS, doubts have arisen concerning the legal effect of the failure to meet the statutory requirements with respect to appraisal and the legality of the notice to bidders and subsequent proceedings for the sale of said lands, and it is deemed advisable to remove forever all such doubts as to the validity of these contracts; NOW THEREFORE,

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

Section 1. All proceedings heretofore taken by the Board of Directors of Fremont-Mills Community School District in the Counties of Fremont and Mills, State of Iowa, in connection with the failure to have proper appraisals, the advertising for bids, public auction and contracting for sale of the following described parcels, to-wit:

Parcel 1: Lot Two (2) in Block Seven (7) in Randolph, Iowa, situated in the Southeast Quarter of the Southwest Quarter (SE. 1/4 SW. 1/4) of Section Nine (9), Township Seventy (70) North, Range Forty-One (41) West of the 5th P.M.

Parcel 2. Lots Eleven (11) and Twelve (12) in Block "U" in the Town of Thurman, Iowa, situated in and being a part of the North Half of the Southeast Quarter (N. 1/2 SE. 1/4) of Section Thirty-Five (35), Township Seventy (70) North, Range Forty-Three (43) West of the 5th P.M.,

and the contracts of sale entered into with Albert Pearson for sale and purchase of Parcel 1 and Dan Gold for sale and purchase of Parcel 2 are hereby legalized, validated and confirmed.

Approved June 2, 1978

CHAPTER 1199

CLINTON COUNTY LEGALIZING ACT

H. F. 2403

AN ACT to legalize proceedings taken by the county board of supervisors of Clinton county relating to the remodeling, expansion and repair of the Clinton county care facility and to authorize payments for additional costs incurred if the payments can be accomplished without a levy of additional taxes.

WHEREAS, the county of Clinton was in need of an expanded and remodeled health care facility and the facility was being operated pursuant to a temporary certificate issued by the state department of health because of violations relating to the lack of adequate facilities then existing; and

WHEREAS, the proposition for such expansion and remodeling was submitted on August 12, 1975, to the voters pursuant to chapter three hundred forty-five (345) of the Code of Iowa, 1975, and was endorsed by more than seventy percent of the voters; and

WHEREAS, pursuant to the election, the Clinton county board of supervisors invited public bids for the project and after review of the bids entered into certain contracts with Vulcan Construction Company and R. L. M. Johnson & Associates for the necessary construction and architectural work to be performed; and

WHEREAS, during the construction period some of the proposed work originally subject to bid, but deleted by negotiations, was later recontracted for pursuant to appropriate change orders; and additional remodeling and emergency repair work were also performed after issuance of appropriate change orders; and

WHEREAS, pursuant to requests by the state fire marshal and the state board of health, additional costs were incurred during the construction period in order to meet code and safety requirements; and

WHEREAS, the Clinton county care facility serves as a living quarters and provides care for transferees from the mental health institute in Mt. Pleasant, Iowa, as well as cares for individuals committed by legal process and as such this expansion and remodeling program may be considered a mental health or mental retardation project within the meaning of section three hundred forty-five point one (345.1) of the Code of Iowa 1977; and

WHEREAS, all of the above work contracted for has been completed and there are available funds on hand, including federal revenue sharing funds, which can be utilized for the payment of such work performed by Vulcan Construction Company and R. L. M. Johnson & Associates; and

WHEREAS, additional project costs evidenced by seven change orders in the amount of two hundred sixty-seven thousand three hundred eighty-eight dollars and ninety-three cents (\$267,388.93) were not submitted to the voters of the county nor did the board provide notice and hold an additional public hearing on the additional project costs as may have been required pursuant to section three hundred forty-five point one (345.1) of the Code, but the board did hold additional public hearings after public notices were given pursuant to the provisions of the Federal Revenue Sharing Act; and

WHEREAS, the general assembly is of the opinion that the private parties involved in the transactions enumerated in this Act should be paid for their materials and services but that actions of local public officials which are contrary to the Code of Iowa should not be easily sanctioned by the procedure of obtaining a legalizing Act and that local public officials should not be easily forgiven for failing to determine the proper procedures required by law in entering into and carrying out public contracts and once determined, proceeding contrary to such law; and

WHEREAS, since doubts have arisen concerning the legal sufficiency of the Clinton county board of supervisors' compliance with the provisions of sections three hundred forty-five point one (345.1) and three hundred thirty-two point seven (332.7) and chapter twenty-three (23) of the Code of Iowa 1977 and it is deemed advisable and necessary to put such doubts and all others that might arise concerning the same to rest; NOW THEREFORE,

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

Section 1. All proceedings theretofore taken by the board of supervisors of Clinton county in connection with and pertaining to entering into contracts with Vulcan Construction Company and R. L. M. Johnson & Associates for the expansion and remodeling of the Clinton county care facility in Clinton County, Iowa, including all payments made and those authorized to be made by the board of supervisors are hereby legalized, validated and confirmed.

Sec. 2. The Clinton county board of supervisors is authorized, pursuant to its contractual agreements, to make payments in the amount of one hundred ninety-five thousand nine hundred fifteen dollars and twenty-three cents (\$195,915.23) to Vulcan Construction Company and R. L. M. Johnson & Associates, which represents the unpaid balance due and owing.

Sec. 3. All payments made pursuant to this Act shall be accomplished without a levy of additional taxes and such payments to be made will be derived from moneys presently available to the county which include funds previously obtained from federal revenue sharing programs.

Sec. 4. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Clinton Herald, a newspaper published in Clinton, Iowa, and in the The DeWitt Observer, a newspaper published in DeWitt, Iowa, without expense to the state.

Approved June 2, 1978

I hereby certify that the foregoing Act, House File 2403, was published in The Clinton Herald, Clinton, Iowa on June 7, 1978, and in The DeWitt Observer, DeWitt, Iowa on June 8, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1200

GRIMES LEGALIZING ACT

S. F. 2263

AN ACT for the legalization of the sale of \$390,000 general obligation corporate purpose bonds dated April 1, 1978, and \$320,000 water revenue bonds dated April 1, 1978, of the city of Grimes, Polk county, Iowa.

WHEREAS, the City of Grimes (the "City") has heretofore proposed to contract indebtedness and issue \$390,000 General Obligation Corporate Purpose Bonds to provide funds to pay the cost to that extent of constructing facilities useful for the collection and disposal of sewage and industrial wastes in a sanitary manner and refunding temporary sewer revenue obligations delivered in payment of materials and services furnished therefor and of improving and extending the Municipal Waterworks, and has published notice of the proposed action and held a hearing thereon, and has called a special city election to vote on the question of issuing bonds for the purpose of improving and extending the Municipal Waterworks, at which election the proposition was adopted

by a vote in favor equal to at least 60% of the total votes cast for and against the proposition and the City thereafter determined to take additional action for the issuance of the Bonds; and

WHEREAS, the City of Grimes is authorized to issue negotiable interest-bearing revenue bonds for the purpose of defraying the cost of the improvements to the Municipal Waterworks and to refund temporary pledge orders delivered in payment of materials and services furnished for such improvements, which bonds are to be paid from the net revenues of the Municipal Waterworks; and

WHEREAS, the City did hold a hearing upon its intention to issue \$320,000 Water Revenue Bonds to pay the cost of the improvements to the Municipal Waterworks System and to refund temporary pledge orders, all in accordance with Sections 384.82 and 384.83 of the Code of Iowa, 1977, as amended, and at such hearing, no oral or written objections were filed thereto, and the City has taken additional action for the issuance of bonds; and

WHEREAS, in compliance with Chapter 75 of the Code of Iowa, the City did receive and consider bids for the purchase and sale of the aforementioned \$390,000 General Obligation Corporate Purpose Bonds and \$320,000 Water Revenue Bonds; and

WHEREAS, at public sale of the \$390,000 General Obligation Corporate Purpose Bonds upon final canvass of all bids, the bid of Central National Bank of Des Moines, Iowa, and White, Weld & Company, Incorporated, of Minneapolis, Minnesota, was determined to be the highest and best bid, such bid being at a price of not less than par and accrued interest, and at such sale there were five bidders for the purchase of the bonds; and

WHEREAS, at public sale of the \$320,000 Water Revenue Bonds the bid of Carleton D. Beh Company of Des Moines, Iowa, was determined to be the highest and best bid, being at a price not less than par and accrued interest, and at said sale there were three bidders; and

WHEREAS, a notice of sale for both the \$390,000 General Obligation Corporate Purpose Bonds and the \$320,000 Water Revenue Bonds were published in the Northeast Dallas County Record, a weekly newspaper published in the City of Woodward, Iowa, in Dallas County, Iowa, such publications being for two consecutive weeks commencing March 16, 1978, and ending March 23, 1978; and

WHEREAS, Chapter 75 of the Code of Iowa specifies that a notice of sale of bonds must be published in the county in which the municipality is located; and

WHEREAS, the Northeast Dallas County Record maintains an office in Grimes, Polk County, Iowa, at 625 First Street, but the newspaper is published in Woodward, Dallas County, Iowa; and

WHEREAS, the actions of the City clearly have been in substantial compliance with the statutes, the notices were made, and a successful sale was held with several bidders competitively bidding for the purchase of the bonds of each issue; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of the notices of sale and it is deemed advisable to put such doubts and all others that might arise concerning the same forever to rest; NOW THEREFORE,

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

Section 1. All proceedings heretofore taken by the City Council of the City of Grimes, Polk County, Iowa, in connection with the publication of notices of sale of bonds for the sale of \$390,000 General Obligation Corporate Purpose Bonds dated April 1, 1978, and \$320,000 Water Revenue Bonds dated April 1, 1978, and the proceedings of the City Council relating to the sale and issuance of both issues of bonds are hereby declared to be legal and valid, and the City Council of the City of Grimes, Iowa, is authorized to sell both issues of bonds to the highest and best bidders therefor at par and accrued interest, as provided by statute.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Northeast Dallas County Record, a newspaper published in Woodward, Iowa, and in the West Des Moines Express, a newspaper published in West Des Moines, Iowa.

Approved May 25, 1978

I hereby certify that the foregoing Act, Senate File 2263, was published in the Northeast Dallas County Record, Woodward, Iowa on June 1, 1978, and in the West Des Moines Express, West Des Moines, Iowa on June 1, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1201
KENSETT LEGALIZING ACT

H. F. 2316

AN ACT to legalize proceedings taken by the city of Kensett relating to the letting of certain contracts.

WHEREAS, the city council of the city of Kensett let a contract for the construction of tennis courts situated within the city of Kensett; and

WHEREAS, the city council of the city of Kensett complied with all of the provisions of the law, except that the city council failed to give proper notice of the date, place and time of the bid openings by proper publication prior to the date of the acceptance of the same; and

WHEREAS, some doubt has arisen as to the validity of the contract executed between the city of Kensett and Benderoff and Associates Inc., as proposed by the city of Kensett by written proposal on May 17, 1977, and said act and contract should be legalized and the matter once and for all be put to rest; NOW THEREFORE,

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

Section 1. That all proceedings taken by the city council of the city of Kensett, pertaining to the letting of a contract for the construction of tennis courts where the city council failed to properly publish notice of the time, place and date of the bid opening, are validated, legalized and confirmed and shall constitute a valid, legal and binding contract for the construction of said tennis courts.

Approved June 5, 1978

CHAPTER 1202

LOST ISLAND SANITARY DISTRICT

H. F. 2310

AN ACT relating to the legalization and validation of the Lost Island Sanitary District and the procedures of the board of supervisors and the county auditor of Palo Alto county in connection with the creation and organization of the Lost Island Sanitary District.

WHEREAS, the Lost Island sanitary district in Palo Alto and Clay counties was organized on December 16, 1974 pursuant to an election held December 11, 1974 and the existence of the Lost Island sanitary district in Palo Alto and Clay counties is of general public interest; and

WHEREAS, doubts have arisen concerning the validity of the action of the board of supervisors and auditor of Palo Alto county in fixing the boundaries of the proposed district and concerning whether all persons in interest had due notice; concerning whether the notice for a special election on the proposal for the organization and establishment of said sanitary district was sufficient; and concerning the entire validity of the proceedings had for the formation of the Lost Island sanitary district; and

WHEREAS, in order to effectively administer said sanitary district it is in the public interest to put any doubt which has arisen or may arise concerning the validity and legal sufficiency of the proceedings for the formation and organization of the Lost Island sanitary district should be legalized and the matter once and for all be put to rest; NOW THEREFORE,

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

Section 1. That all proceedings heretofore taken in connection with the creation, establishment, and organization of the Lost Island sanitary district in Palo Alto and Clay counties and the legal existence of said district are hereby declared to be valid, legal and sufficient to create and establish an organized sanitary district and said proceedings are hereby legalized, validated and confirmed and shall constitute full authority for the board of trustees of said district to exercise the full corporate power of a sanitary district lawfully organized pursuant to the laws of this state.

Approved May 16, 1978

CHAPTER 1203

POLK COUNTY LEGALIZING ACT

S. F. 2260

AN ACT legalizing the proceedings of the city council of Polk City, Iowa in connection with the making of a contract for the construction of water main improvements.

WHEREAS, on August 2, 1976, the City Council of Polk City, Iowa, passed a resolution adopting a Resolution of Necessity for the construction of certain water main improvements in said City, designated as the "1976 Water Main Extension Project"; and

WHEREAS, on November 12, 1976 the District Court of the State of Iowa entered its decree confirming as correct, lawful and proper all assessments made, subject to certain modifications therein provided, and confirming all acts of the City of Polk City and its Council with respect thereto and further ordered that said assessments were to be collected following award of contract for the construction of the improvement and final levy of said assessments by resolution of the Council of the City of Polk City upon completion of the improvements pursuant to the provisions of Chapter 384, City Code of Iowa, and the same constitute a lien on a parity with the lien of ordinary taxes against the properties of defendants to the extent assessed, no appeal having been taken therefrom; and

WHEREAS, on August 2, 1976, the City Council of said City passed a resolution ordering the construction of said water main improvements and directing publication of a Notice of Hearing and Letting, pursuant to the provisions of Chapter 384 of the Code of Iowa, and

WHEREAS, a notice to bidders of hearing and letting was published in various trade journals, and mailed to eight contractors; five bids were received and the low bid resulted in costs below the engineers estimate; and

WHEREAS, on November 15, 1976, said City entered into a contract for the construction of the water main improvements covered by the Resolution of Necessity and the Resolution Ordering Construction, hereinabove mentioned, with the low bidder Hurst Excavating of Waterloo, Iowa, which company thereafter filed its performance and maintenance bond; and

WHEREAS, said construction work, has been completed by said Contractor and said Contractor has been partially paid

from available cash funds of the City on hand; and

WHEREAS, after satisfactory completion of the construction work doubts have arisen concerning the sufficiency of publication of said Notice of Hearing and Letting, the legality of the construction contract, and concerning the power of the Council to order disbursement of City funds to the contractor, to levy special assessments against benefited property, and to issue and sell bonds to pay the costs of said improvements, and it is deemed advisable to put such doubts forever at rest: NOW THEREFORE,

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

Section 1. All proceedings heretofore taken by the City Council of Polk City, Iowa, including all legal notices given, in connection with and pertaining to the execution of the contract with Hurst Excavating, Inc., on November 15, 1976, for the construction of certain water main improvements in said City pursuant to said Resolution of Necessity adopted August 2, 1976, and said contract itself, are hereby legalized, validated and confirmed, and shall constitute full authority for the acts of said City Council ordering the disbursement of the funds of said City, levying special assessments against benefited property, pursuant to said Resolution of Necessity adopted August 2, 1976, and issuing and selling bonds in anticipation of the collection of said assessments and general obligation bonds to pay for the balance of the costs of said improvements, in the manner otherwise prescribed by law, and said bonds, when so issued, shall be valid, legal and binding obligations of said City in accordance with their terms.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Ankeny Press-Citizen, a newspaper published in Ankeny, Iowa, and in The Marion Sentinel, a newspaper published in Marion, Iowa, without expense to the state.

Approved June 5, 1978

I hereby certify that the foregoing Act, Senate File 2260, was published in the Ankeny Press-Citizen, Ankeny, Iowa on June 15, 1978, and in The Marion Sentinel, Marion, Iowa on June 15, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1204
VAN BUREN COUNTY LEGALIZING ACT

H. F. 2377

AN ACT to legalize proceedings taken by the Van Buren county board of supervisors relating to sale of certain real estate belonging to the Van Buren county conservation board subject to certain conditions and easements.

WHEREAS, on the 14th day of May, 1973, the Van Buren County Board of Supervisors executed a deed at the request of the Van Buren County Conservation Board to sell real estate subject to certain conditions and easements as follows:

Lots 6, 7, 8, 9 and 10 in Block 20 in the Town of Bentonsport, Van Buren County, Iowa.

Property must be maintained in accordance with future plans for development of Bentonsport as an historic site and in accordance with the National Register.

Grantor also grants to Grantee a perpetual easement for the use of an existing water well directly across the street to the North of said property and further grants a perpetual easement to Grantee to dig and lay all necessary water lines from said property to said well including laying said pipeline under the existing street.

WHEREAS, on the 14th day of May, 1973, the Van Buren County Board of Supervisors for consideration in the amount of \$2,100.00, did sell to J. Herbert Cross and Mardelle Louise Cross, husband and wife, the above described real property, and,

WHEREAS, the requirements as set out in Section 332.3(13) of the Iowa Code were not fully complied with, and doubts have arisen concerning the legal sufficiency of the sale and it is deemed advisable and necessary to put such doubts and all others that might arise concerning said sale to rest;
NOW THEREFORE,

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

Section 1. That all acts and proceedings heretobefore taken by the Board of Supervisors of Van Buren County, Iowa, in connection with the sale of the hereinafter described real estate, subject to certain conditions and easements, to J. Herbert Cross and Mardelle Louise Cross, husband and wife, are hereby legalized, validated and confirmed:

Lots 6, 7, 8, 9 and 10 in Block 20 in the Town of Bentonsport, Van Buren County, Iowa.

Sec. 2. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Van Buren County Register, a newspaper published in Keosauqua, Iowa, and in The Van Buren County Leader, a newspaper published in Farmington, Iowa, without expense to the state.

Approved June 5, 1978

I hereby certify that the foregoing Act, House File 2377, was published in the Van Buren County Register, Keosauqua, Iowa on June 15, 1978, and in The Van Buren County Leader, Framington, Iowa on June 15, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1205

EQUALITY OF RIGHTS

First time passed

H. J. R. 12

A JOINT RESOLUTION proposing an amendment to the Constitution of the state of Iowa to provide that equality of rights of men and women under the law shall not be denied or restricted by the state or by any of its political subdivisions.

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

Section 1. The following amendment to the Constitution of the State of Iowa is hereby proposed.

Section one (1) of Article one (I) of the Constitution of the State of Iowa is repealed and the following adopted in lieu thereof:

NEW SECTION. RIGHTS OF PERSONS. Section 1. All men and women are, by nature, free and equal, and have certain inalienable rights--among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness. Neither the State nor any of its political subdivisions shall, on the basis of gender, deny or restrict the equality of rights under the law.

Sec. 2. It is declared to be the intent of the general assembly in agreeing to the foregoing proposed amendment to the Constitution of the State of Iowa that a classification on the basis of gender shall not be held to deny or restrict equality of rights if it can be established that such classification is necessary to accomplish a compelling state interest.

Sec. 3. The foregoing proposed amendment to the Constitution of the State of Iowa is hereby referred to the general assembly to be chosen at the next general election for members of the general assembly, and the secretary of state is directed to cause the same to be published for three consecutive months before the date of said election as provided by law.

CHAPTER 1206

HOME RULE FOR COUNTIES

Second time passed

H. J. R. 9

A JOINT RESOLUTION proposing an amendment to the Constitution of the state of Iowa to provide home rule for counties and joint county-municipal corporation governments.

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

Section 1. The following amendment to the Constitution of the State of Iowa is hereby proposed.

Article three (III), legislative department, Constitution of the State of Iowa is hereby amended by adding the following new section:

NEW SECTION. Counties or joint county-municipal corporation governments are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. The general assembly may provide for the creation and dissolution of joint county-municipal corporation governments. The general assembly may provide for the establishment of charters in county or joint county-municipal corporation governments.

If the power or authority of a county conflicts with the power and authority of a municipal corporation, the power and authority exercised by a municipal corporation shall prevail within its jurisdiction.

The proposition or rule of law that a county or joint county-municipal corporation government possesses and can exercise only those powers granted in express words is not a part of the law of this state.

Sec. 2. The foregoing proposed amendment, having been adopted and agreed to by the Sixty-sixth General Assembly, thereafter duly published, and now adopted and agreed to by the Sixty-seventh General Assembly, in this Joint Resolution, shall be submitted to the people of the State of Iowa at the general election in November of the year nineteen hundred seventy-eight (1978) in the manner required by the Constitution of the State of Iowa and the laws of the State of Iowa.

CHAPTER 1207
RULES OF CIVIL PROCEDURE

[SEE SECTION 684.19 OF THE CODE]

IN THE MATTER OF)	
)	REPORT OF THE
THE)	
RULES OF CIVIL PROCEDURE)	SUPREME COURT

TO THE 1978 REGULAR SESSION OF THE SIXTY-SEVENTH
GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 684.18(1) and 684.19, The Code, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in existing Rules of Civil Procedure as follows:

Rule 49(a).

That rule 49(a) be amended to read as follows:

"(a) Written directions for the service of the original notice and copy of petition shall be delivered to the clerk with the petition. There shall also be delivered to the clerk with the petition the original notice to be served and sufficient copies of both. The original notice shall contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to ~~appear-and defend~~ serve, and within a reasonable time thereafter file, a written special appearance, motion or answer, and shall notify

defendant that in case of defendant's failure to do so judgment by default will be rendered against the defendant for the relief demanded in the petition."

Rule 50.

That rule 50 be amended to read as follows:

"50. SERVING COPIES OF ORIGINAL NOTICE AND PETITION.

The original notice and copy of petition shall be served together except when service is by publication. If service is by publication the original notice alone shall be published and shall also contain a general statement of the ~~cause-or-causes-of-action~~ claim or claims and the relief demanded, and, if for money, the amount thereof."

Rule 53.

That rule 53 be amended to read as follows:

"53. TIME FOR SPECIAL APPEARANCE, MOTION OR ANSWER. A

defendant served as provided in these rules by publication or by publication and mailing must ~~appear~~ serve, and within a reasonable time thereafter file, a written special appearance, motion or answer on or before the date fixed in the notice as published, which date shall not be less than twenty days after the date of last publication.

A defendant served in a manner prescribed by a statute or order of court shall ~~appear~~ serve, and within a reasonable time thereafter file, a written special appearance, motion or answer on or before the date fixed as provided by said statute or order of court.

In the event service of process is made by mail under rule 56.2 the ~~appearance~~ date for such action shall be on the date fixed in the original notice which shall not be less than sixty days following the date of mailing.

In all other cases the defendant shall ~~appear~~ serve, and within a reasonable time thereafter file, a written special appearance, motion or answer within twenty days after the service of the original notice and petition upon such defendant."

Rule 54(a).

That rule 54(a) be amended to read as follows:

"54. SPECIAL CASES - APPEARANCE RESPONSE OF GARNISHEE.

(a) Any statute of Iowa which specially requires ~~appearance~~ response by a particular defendant, or in a particular action, within a specified time, shall govern the time for ~~appearance~~ responding, and within a reasonable time thereafter filing, a written special appearance, motion or answer in such cases, rather than rule 53."

Rule 58.

That rule 58 be amended to read as follows:

"58. MEMBER OF GENERAL ASSEMBLY. No member of the general assembly shall be held to specially appear, move or answer in any civil action in any court in this state while such general assembly is in session."

Rule 60(i).

That rule 60(i) be amended to read as follows:

"(i) For ~~divorce~~ dissolution of marriage or separate maintenance or to modify a decree in such action, or to annul an illegal marriage, against a defendant who is a nonresident of Iowa or whose residence is unknown;"

Rule 60.1(b).

That rule 60.1(b) be amended to read as follows:

"(b) Such copy of notice shall be mailed by the party, his agent or attorney not less than twenty days before the date set for written special appearance, motion or answer."

Rule 65.

That rule 65 be amended to read as follows:

"65. APPEARANCES. An attorney making an appearance shall, either by filing written appearance or by signature to the first pleading or motion filed by the attorney, clearly indicate the attorney or attorneys in charge of the case and shall not sign in the name of the firm only. Such appearance shall entitle the attorney to service as provided in rule 82."

Rule 68.

That rule 68 be amended to read as follows:

"68. ALLOWABLE PLEADINGS. There shall be a petition and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a ~~third-party-petition~~ cross-petition, if a person who was not an original party is summoned under the provisions of rule 34; and a ~~third-party-answer~~ an answer to cross-petition, if a ~~third party-petition~~ cross-petition is served."

Rule 69(a).

That rule 69(a) be amended to read as follows:

"(a) CLAIMS FOR RELIEF. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim or ~~third-party-claim~~ cross-petition, shall contain (1) a short and plain statement of the claim showing that the pleader is entitled to relief, and (2) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded."

Rule 73.

That rule 73 be amended to read as follows:

"73. REPLY. The court may order a reply to an answer or to a ~~third-party-answer~~ an answer to a cross-petition."

Rule 82(a).

That rule 82(a) be amended to read as follows:

"(a) WHEN SERVICE REQUIRED. Everything required by these rules to be filed, every order required by its terms to be served, every pleading subsequent to the original petition unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. No service need be made on ~~parties-in~~ any party against whom a default for-failure-to-appear has been entered except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of original notice in rule 56.1.

In an action begun by seizure of property, in which no person need be or is named as defendant, any service required to be made prior to the filing of an answer, claim, or appearance shall be made upon the person having custody or possession of the property at the time of its seizure."

Rule 82(f).

That rule 82(f) be amended to read as follows:

"(f) NOTICE OF ORDERS OR JUDGMENTS. Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry by mail in the manner provided for in rule 82 upon each party ~~who-is-not-in~~ except a party against whom a default for-failure-to-appear, has been entered and shall make a note in the docket of the mailing.

In the event a case involves an appeal or review relating to an administrative agency, officer, commissioner, board, administrator, or judge, the clerk shall mail without cost to

the applicable administrative agency, officer, commissioner, board, administrator, or judge a copy of any remand order, final judgment or decision in the case and a copy of any procedendo from the supreme court. Such mailing is sufficient notice for all purposes for which notice of the entry of an order is required by these rules; but any party may in addition serve a notice of such entry in the manner provided in rule 82 for the service of papers. Lack of notice of the entry by the clerk does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, ~~except as permitted in rule 335(a).~~"

Rule 85(b).

That rule 85(b) be amended to read as follows:

"(b) PLEADING. Answer to a petition must be served on or before the ~~appearance~~ date prescribed in accordance with rule 53. A party served with a pleading stating a cross-claim against the party shall serve an answer thereto within twenty days after the service of the pleading upon the party. The plaintiff shall serve a reply to a counterclaim in the answer within twenty days after service of the answer, or if a reply is ordered by the court, within twenty days after service of the order, unless the order otherwise directs."

Rule 85(c).

That rule 85(c) be amended to read as follows:

"(c) TIME AFTER FILING MOTIONS OR SPECIAL APPEARANCES. The service of a motion or special appearance permitted under these rules alters these periods of time as follows, unless a different time is fixed by order of court+.

~~(1) If the court denies the motion or postpones its disposition until the trial on the merits, or overrules the special appearance, the responsive pleading shall be served within ten days after notice of the court's action;~~

If the motion or special appearance is so disposed of as to require further pleading, such pleading shall be served within ten days after notice of the court's action.

~~(2)-If-the-court-grants-a-motion-for-a-more-specific statement,-the-responsive-pleading-shall-be-served-within-ten days-after-the-service-of-the-more-specific-statement;-pre-vided,-however,-unless-the-parties-stipulate-in-writing-otherwise,-the-filing-of-a-motion-for-additional-time-shall-delay the-responsive-pleading-for-a-period-of-ten-days-after-the service-of-the-motion-unless-within-such-time-the-court-orders otherwise."~~

Rule 85(e).

That rule 85(e) be amended to read as follows:

"(e) SHORTENING TIME. The court may order any motion or pleading to be filed within a shorter time than specified above, ~~but-cannot-require-a-defendant-to-answer-sooner-than-seven-days after-the-appearance-date."~~

Rule 87.

That rule 87 be amended to read as follows:

"87. APPEARANCE ALONE. An appearance without motion or pleading shall have the effect only of submitting to the jurisdiction. The court shall have no power to treat such appearance as sufficient to delay or prevent a default or any other order which would be made in absence thereof, or of timely pleading. Notice and opportunity to respond to any motion for judgment under rule 232(b) shall be given to any party who has appeared."

Rule 140(a).

That rule 140(a) be amended to read as follows:

"(a) WHEN DEPOSITIONS MAY BE TAKEN. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if

the plaintiff seeks to take a deposition prior to the expiration of ten days after the ~~appearance~~ date for special appearance, motion or answer for any defendant, except that leave is not required:

(1) If a defendant has served a notice of taking deposition or otherwise sought discovery, or

(2) If special notice is given as provided in subdivision "b"(2) of this rule. The attendance of witnesses may be compelled by subpoena as provided in rule 155. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes."

Rule 147(b).

That rule 147(b) be amended to read as follows:

"(b) The party taking an oral deposition must first serve reasonable notice on all other parties ~~not-in~~ except a party against whom a default for-want-of-appearance has been entered, stating the time and place thereof and the name and address of the deponent, or if that is unknown, a description identifying him or the class or group to which he belongs. The court, on motion of any party so served, may for good cause enlarge or shorten the time."

Rule 181(3).

That rule 181(3) be amended to read as follows:

"3. The adverse party has had reasonable time to obtain inspections, examinations and reports under rules ~~131~~ 129 to 133;"

Rule 226.

That rule 226 be amended to read as follows:

"226. BY AGREEMENT. Except in actions for ~~divorce~~ dissolution of marriage, separate maintenance and annulment of marriage, the clerk shall forthwith enter any judgment upon

which all parties agree in open court, or by writing filed with the clerk; and execution may issue forthwith unless otherwise agreed."

Rule 230.

That rule 230 be amended to read as follows:

"230. DEFAULT DEFINED. A party shall be in default whenever he (a) fails to ~~appear~~ serve, and within a reasonable time thereafter file, a written special appearance, motion or answer as required in rule 53 or 54, or, has appeared, without thereafter ~~filing~~ -serving any motion or pleading as stated in rule 87; or (b) fails to move or plead further as required in rule 86, unless judgment has already resulted under rule 87; or (c) withdraws his pleading without permission to replead, or withdraws his appearance or fails to present himself for trial; or (d) fails to comply with any order of court or do any act which permits entry of default against him, under any rule or statute."

Rule 232(b).

That rule 232 (b) be amended to read as follows:

"(b) In all cases the court on ~~request~~ motion of the prevailing party, shall order the judgment to which he is entitled, and the clerk shall enter the judgment so ordered. If no judge is holding court in the county, such order may be made by a judge anywhere in the judicial district as provided in rule 120. The court may, and on demand of any party not in default shall, either hear any evidence or accounting required to warrant the judgment or refer it to a master; or submit it to a jury if proper demand has been made therefor under rule 177."

Rule 251(a).

That rule 251(a) be amended to read as follows:

"(a) RETRIAL. Except in actions for ~~divorce~~ dissolution of marriage and annulment of marriage, if judgment is entered

against a defendant who did not appear and was served only by publication or by publication and mailing, as provided in rule 60.1, he or any person legally representing him may apply for retrial within six months after entry of judgment, and on giving security for costs is then entitled to his defense and trial as though there were no judgment."

Rule 309.

That rule 309 be amended to read as follows:

"309. THE WRIT. The writ may be granted only by the district court acting through a district judge unless it is directed to that court, a district judge, a district associate judge, or a municipal or superior court a full-time magistrate appointed pursuant to § 602.51 or § 602.59, The Code; and then by the supreme court or a justice thereof. Only the district court acting through a district judge may grant the writ directed at a part-time judicial magistrate appointed pursuant to § 602.50 or § 602.58, The Code. The writ ~~it~~ shall be issued by the clerk of the court where the petition is filed, under its seal. It shall command the defendant to certify to that court, at a specified time and place, a transcript of so much of defendant's records and proceedings as are complained of in the petition or as may be pertinent thereto, together with the facts of the case, describing or referring to them or any of them with convenient certainty; and also to have then and there the writ."

Rule 327.

That rule 327 be amended to read as follows:

"327. BOND. The order directing a temporary injunction must require that before the writ issues, a bond be filed, with a penalty to be specified in the order, which shall be one hundred twenty-five percent of the probable liability to be incurred. Such bond with sureties to be approved by the clerk, shall be conditioned to pay all damages which may be adjudged

against the petitioner by reason of the injunction. But in actions for ~~divorce~~ dissolution of marriage, separate maintenance or annulment of marriage, the court in its discretion may waive any bond, or fix its penalty in any amount deemed just and reasonable."

Rule 371.

That rule 371 be stricken.

Rule 380.

That rule 380 be amended to read as follows:

"380. JUDICIAL COUNCIL. There is hereby created a judicial council composed of all chief judges of the judicial districts, and chief judge of the court of appeals, and the chief justice of the supreme court, or his designee, who shall be the chairman. The council shall convene not less than twice each year at such times and places as the chairman shall order. The council shall consider all court administrative rules, directives and regulations for the achievement of the purposes stated in rule 373 and may propose to the supreme court such rules as deemed appropriate!"

Rule 381.

That rule 381 be amended to read as follows:

"381. FORMS. The forms contained in the Appendix of Forms following this rule are for use and are sufficient under the Iowa Rules of Civil Procedure, ~~excluding the rules appearing in division XVI.~~ ~~The supreme court shall have the power to prescribe forms for use under the rules appearing in division XVI.~~"

APPENDIX OF FORMS.

Form 1.

That form 1 be amended to read as follows:

"1. FORM OF ORIGINAL NOTICE FOR PERSONAL SERVICE.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s), _____ No. _____
vs. (INSERT "LAW"
OR "EQUITY".)

Defendant(s). ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, a copy of which petition is attached hereto. The plaintiff's attorney is _____, whose address is _____, Iowa _____.

You are further notified that unless, within 20 days after service of this original notice upon you, you appear thereto and defend serve, and within a reasonable time thereafter file, a written special appearance, motion or answer, in the Iowa District Court for _____ County, at the county courthouse in _____ Iowa, within 20 days after the service of this original notice upon you, judgment by default will be rendered against you for the relief demanded in the petition.

(SEAL)

CLERK OF THE ABOVE COURT

COUNTY COURTHOUSE
_____, Iowa _____

Note:

~~Persons named as defendants are told to "appear thereto and defend." These words are not always understood. The required appearance may be made either by the defendant or by defendant's attorney. IT IS NECESSARY TO SERVE AND FILE A SPECIAL APPEARANCE, MOTION OR PLEADING TO PREVENT A DEFAULT (RULE 87). The attorney who is expected to appear for represent the defendant should be promptly advised by defendant of the service of this notice.~~

Form 2.

That form 2 be amended to read as follows:

"2. FORM OF ORIGINAL NOTICE AGAINST A NONRESIDENT MOTOR VEHICLE OWNER OR OPERATOR UNDER § 321.500, THE CODE.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s),

No. _____

vs.

(INSERT "LAW" OR "EQUITY".)

Defendant(s).

ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S).

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, a copy of which petition is attached hereto. The plaintiff's attorney is _____, whose address is _____, Iowa _____.

You are further notified that unless, before noon of the sixtieth day following the filing of this notice with the director of transportation of this state, you appear thereto-and-defend serve, and within a reasonable time thereafter file, a written special appearance, motion or answer, in the Iowa District Court for _____ County, at the courthouse in _____, Iowa, ~~before-noon-of-the-sixtieth-day-following-the-filing-of this-notice-with-the-director-of-transportation-of-this state;~~ default will be entered and judgment rendered against you by the court.

(SEAL)

CLERK OF THE ABOVE COURT

County Courthouse
_____, Iowa _____

NOTE:

~~Persons-named-as-defendants-are-told-to-"appear-thereto-and defend;"--These-words-are-not-always-understood;--The-required appearance-may-be-made-either-by-the-defendant-or-by-defendant's attorney;--IT-IS-NECESSARY-TO-SERVE-AND-FILE-A-SPECIAL APPEARANCE,-MOTION-OR-PLEADING-TO-PREVENT-A-DEFAULT-(RULE-87)-. The attorney who is expected to appear-for represent the defendant should be promptly advised by defendant of the service of this notice."~~

Form 3.

That form 3 be amended to read as follows:

"3. FORM OF ORIGINAL NOTICE AGAINST FOREIGN CORPORATION OR NONRESIDENT UNDER § 617.3, THE CODE.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s), _____ No. _____

vs.

(INSERT "LAW"
OR "EQUITY".)

Defendant(s). ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, a copy of which petition is attached hereto. The plaintiff's attorney is _____, whose address is _____, Iowa _____.

You are further notified that unless, within 60 days following the filing of this notice with the secretary of state of the State of Iowa, you appear thereto and defend serve, and within a reasonable time thereafter file, a written special appearance, motion or answer, in the Iowa District Court for _____ County, at the courthouse in _____, Iowa, within 60 days following the filing of this notice with the secretary of state of the state of Iowa; default will be entered and judgment rendered against you by the court.

(SEAL)

CLERK OF THE ABOVE COURT

County Courthouse

, Iowa _____

NOTE:

~~Persons named as defendants are told to "appear thereto and defend." These words are not always understood. The required appearance may be made either by the defendant or by defendant's attorney. IT IS NECESSARY TO SERVE AND FILE A SPECIAL APPEARANCE, MOTION OR PLEADING TO PREVENT A DEFAULT (RULE-87). The attorney who is expected to appear for represent the defendant should be promptly advised by defendant of the service of this notice.~~

Form 4.

That form 4 be amended to read as follows:

"4. FORM OF ORIGINAL NOTICE FOR PUBLICATION.

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

Plaintiff(s),

No. _____

vs.

(INSERT "LAW"
OR "EQUITY".)

Defendant(s).

ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby notified that there is now on file in the office of the clerk of the above court, a petition in the above-entitled action, which petition prays (1) _____ . The plaintiff's attorney is _____ whose address is _____, Iowa _____.

You are further notified that unless, on or before the (2) _____ day of _____, 19____, you appear thereto and defend, serve, and within a reasonable time thereafter file, a written special appearance, motion or answer, in the Iowa District Court for _____ County, at the courthouse in _____, Iowa, on or before the (2) _____ day of _____, 19____, judgment by default will be rendered against you for the relief demanded in the petition.

CLERK OF THE ABOVE COURT

(SEAL)

County Courthouse

Iowa _____

NOTE:

~~Persens-named-as-defendants-are-told-to-"appear-thereto-and defend."--These-words-are-not-always-understood.--The-required appearance-may-be-made-either-by-the-defendant-or-by defendant's-attorney.--IT-IS-NECESSARY-TO-SERVE-AND-FILE-A SPECIAL-APPEARANCE,-MOTION-OR-PLEADING-TO-PREVENT-A-DEFAULT (RULE-87):~~ The attorney who is expected to appear for represent the defendant should be promptly advised by defendant of the service of this notice.

[(1) Here make a general statement of the cause or causes of action and the relief demanded, and, if for money, the amount thereof (Rule 50).

(2) Date inserted here must not be less than 20 days after the day of the last publication of the original notice (Rule 53).]"

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ C. Edwin Moore
C. Edwin Moore, Chief Justice

Des Moines, Iowa
January 17, 1978

ACKNOWLEDGMENT

I, Steven C. Cross, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the seventeenth day of January, 1978 of the foregoing report of the Supreme Court of Iowa pertaining to Rules of Civil Procedure.

/s/ Steven C. Cross
Secretary of the Senate, 1978
Regular Session of the Sixty-
seventh General Assembly of the
State of Iowa.

ACKNOWLEDGMENT

I, David L. Wray, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on this seventeenth day of January, 1978 of the foregoing report of the Supreme Court of Iowa pertaining to Rules of Civil Procedure.

/s/ David L. Wray
Chief Clerk of the House of
Representatives, 1978 Regular
Session of the Sixty-seventh
General Assembly of the State
of Iowa.

CERTIFICATE

I, Arthur A. Neu, do hereby certify that I am the President of the Senate of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa; and I, Kevin P. Light, do hereby certify that I am the Acting Secretary of the Senate of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa, and we do hereby jointly certify that as such President and Acting Secretary that on the seventeenth day of January, 1978, the Supreme Court of the State of Iowa reported to said Senate, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making said report to the 1978 Regular Session of the Sixty-seventh General Assembly was within the twenty days subsequent to the convening of the 1978 Regular Session of the Sixty-seventh General Assembly;

THAT no other report pertaining to the Rules of Civil Procedure was made or filed by said Supreme Court with said Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure were made or enacted at such 1978 Regular Session of said Sixty-seventh General Assembly.

Signed this 16 day of July, 1978, being the last legislative day of the 1978 Regular Session of the Sixty-seventh General Assembly. [See Code §684.19]

/s/ Arthur A. Neu
Arthur A. Neu
President of the Senate

/s/ Kevin P. Light
Kevin P. Light
Acting Secretary of the Senate
1978 Regular Session of the
Sixty-seventh General Assembly
of the State of Iowa

CERTIFICATE

I, Dale M. Cochran, do hereby certify that I am the Speaker of the House of Representatives of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa; and I, David L. Wray, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa, and we do hereby jointly certify that as such Speaker and Chief Clerk that on the seventeenth day of January, 1978, the Supreme Court of the State of Iowa reported to said House of Representatives, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making said report to the 1978 Regular Session of the Sixty-seventh General Assembly was within the twenty days subsequent to the convening of the 1978 Regular Session of the Sixty-seventh General Assembly;

THAT no other report pertaining to the Rules of Civil Procedure was made or filed by said Supreme Court with said House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure were made or enacted at such 1978 Regular Session of said Sixty-seventh General Assembly.

Signed this 16th day of July, 1978, being the last legislative day of the 1978 Regular Session of the Sixty-seventh General Assembly. [See Code §684.19]

/s/ Dale M. Cochran

Dale M. Cochran
Speaker of the House

/s/ David L. Wray

David L. Wray
Chief Clerk of the House of
Representatives, 1978 Regular
Session of the Sixty-seventh General
Assembly of the State of Iowa

CHAPTER 1208
RULES OF CRIMINAL PROCEDURE

[SEE SECTIONS 684.19 AND 813.4 OF THE CODE]

IN THE MATTER OF)	
THE)	REPORT OF THE
RULES OF CRIMINAL PROCEDURE)	SUPREME COURT

TO THE 1978 REGULAR SESSION OF THE SIXTY-SEVENTH
GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 684.18(1), 684.19, and 813.4, The Code, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly amendments in existing Rules of Criminal Procedure as follows:

Rule 5(3).

That rule 5(3) be amended as follows:

"3. Witness names and minutes. The prosecuting attorney shall, at the time of filing such information, endorse or cause to be endorsed thereon the names, ~~occupations, and last known addresses~~ of the witnesses whose evidence the prosecuting attorney expects to introduce and use on the trial of the same, and shall also file with such information, ~~of each witness whose name is endorsed upon the information, a statement sufficient to enable the defendant to prepare his defense~~ the minutes of evidence of such witness as defined in rule 4(6)(a)."

Rule 5(4).

That rule 5(4) be amended as follows:

"4. Approval by judge. Prior to the filing of the information, a district judge, district associate judge or magistrate having jurisdiction of the offense must approve the information by a finding that the evidence contained in the information and the minutes of ~~testimony~~ evidence, if unexplained, would warrant a conviction by the trial jury. If not approved, the charge may be presented to the grand jury for consideration. At any time after judicial approval of an information, and prior to the commencement of trial, the court, on its own motion, may order said information set aside and said case submitted to the grand jury."

Rule 8(2)(d).

That rule 8(2) be amended by adding the following new paragraph:

"d. Challenging pleas of guilty. The court shall inform the defendant that any challenges to a plea of guilty based on alleged defects in the plea proceedings must be raised in a motion in arrest of judgment and that failure to so raise such challenges shall preclude the right to assert them on appeal."

Rule 17(5)(d).

That rule 17(5)(d) be amended as follows:

"d. Affinity or consanguinity, within the fourth degree, to the person alleged to be injured by the offense charged, or on whose ~~preliminary-information~~ complaint, or at whose instance, the prosecution was instituted, or to the defendant, to be computed according to the rule of the civil law."

Rule 17(5)(e).

That rule 17(5)(e) be amended as follows:

"e. Standing in the relation of guardian and ward, attorney and client, employer and employee, or landlord and tenant, or

being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose ~~preliminary-information~~ complaint, or at whose instance, the prosecution was instituted, or in his or her employ on wages."

Rule 17(17).

That rule 17(17) be amended as follows:

"17. Alternate jurors. The court may impanel one or more alternate jurors whose qualifications, powers, functions, facilities, and privileges shall be the same as regular jurors. After the regular jury is selected, the clerk shall draw the names of three more persons if one alternate juror is desired, or four more persons if two alternate jurors are desired, and so on in like proportion, who are to serve under this rule, who shall be sworn and subject to examination and challenge for cause as provided in this rule. Each ~~party~~ side must then strike off one such name, and the one or two or appropriate number remaining shall be sworn to try the case with the regular jury, and sit at the trial. Alternate jurors shall, in the order they were drawn, replace any juror who becomes unable to act, or is disqualified, before the jury retires, and if not so needed shall then be discharged."

Rule 18(1)(a)(1).

That rule 18(1)(a)(1) be amended as follows:

"(1) Reading indictment and plea. The clerk or prosecuting attorney must read the accusation from the indictment or the supplemental indictment, as appropriate, and state the defendant's plea to the jury."

Rule 18(2).

That rule 18(2) be amended as follows:

"2. Advance notice of evidence supporting indictments or informations. The prosecuting attorney, in offering trial evidence in support of an indictment, shall not be permitted to

introduce any witness the minutes of whose testimony was not presented with the indictment to the court; in the case of informations, a witness may testify in support thereof if the witness' identity and a minute of the witness' evidence has been given pursuant to these rules. However, these provisions are subject to the following exception: Additional witnesses in support of the indictment or trial information may be presented by the prosecuting attorney if he or she has given the defendant's attorney of record, or the defendant if he or she has no attorney, a minute of such witness' testimony evidence, as defined in rule 4(6)(a), at least ten days before the commencement of the trial."

Rule 18(5)(c).

That rule 18(5)(c) be amended as follows:

"c. ~~Alternate-jurors; Separation and-deliberation of jurors. The-court-may-panels-alternate-jurors,-which-may-replace-jurors originally-selected,-in-the-manner-provided-in-civil-cases-~~ The jurors shall be kept together unless the court permits the jurors to separate as in civil cases; and the officers having charge of the jury shall be sworn to suffer no person to communicate with them except as provided for in civil cases."

Rule 18(5)(h).

That rule 18(5)(h) be amended as follows:

"h. ~~Separation-of-jurors~~ Jury deliberations. On final submission, the jury shall retire for deliberation, and be kept together in charge of an officer until they agree on a verdict or are discharged by the court, unless the court permits the jurors to separate temporarily overnight, on weekends or holidays, or in emergencies. ~~During-their-deliberations,~~ The officer in charge must be sworn to not suffer any communication to be made to them during their deliberations, nor to make any himself or herself, except to ask them if they have agreed on a verdict, unless by order of court; nor to communicate to any person the

state of their deliberations, or the verdict agreed upon before it is rendered."

Rule 22(1).

That rule 22(1) be amended as follows:

"1. Entry of judgment of acquittal or conviction. Upon a verdict of not guilty for the defendant, or special verdict upon which a judgment of acquittal must be given, the court must render judgment of acquittal immediately. Upon a plea of guilty, verdict of guilty, or a special verdict upon which a judgment of conviction may be rendered, the court must fix a date for pronouncing judgment, which must be within a reasonable time but not less than ~~eight~~ fifteen days after the plea is entered or the verdict is rendered, unless defendant consents to a shorter time."

Rule 22(3)(e).

That rule 22(3)(e) be amended as follows:

"e. Notification of right to appeal. After imposing sentence in a case, the court shall advise the defendant of his or her statutory right to appeal ~~as provided in rule 15-1 of the rules of the supreme court~~ and the right of a person who is unable to pay the costs of appeal to apply to the court for appointment of counsel and the furnishing of a transcript of the evidence as provided in sections 814.9 and 814.11, Supplement to the Code 1977.

Such notification shall advise defendant that filing a notice of appeal within the time and in the manner specified in section 814.4, Supplement to the Code 1977, is jurisdictional and failure to comply with these provisions shall preclude defendant's right of appeal.

The trial court shall make compliance with this rule a matter of record."

Rule 22(3)(f).

That rule 22(3) be amended by denominating existing paragraph f as "g" and adding the following new paragraph f:

"f. Exercise of right to appeal. After notifying the defendant of his or her statutory right to appeal, the trial court may ask the defendant if he or she desires to appeal. If after appropriate consultation with counsel the defendant responds affirmatively, the court shall direct defense counsel to file notice of appeal forthwith and, if the defendant is indigent, shall at once order the transcript and appoint appellate counsel, without awaiting application therefor under sections 814.9 and 814.11, Supplement to the Code 1977."

Rule 23(2)(a).

That rule 23(2)(a) be amended as follows:

"a. Procedural steps in seeking or ordering new trial. The application for a new trial can be made only by the defendant and shall be made ~~before-judgment~~ not later than 45 days after plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered, but in any case not later than five days before the date set for pronouncing judgment, but where based upon newly discovered evidence may be made after judgment as well. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In any case the court shall specify in the order the grounds therefor."

Rule 23(3)(a).

That rule 23(3)(a) be amended as follows:

"a. Motion in arrest of judgment; definition and grounds. A motion in arrest of judgment is an application by the defendant that no judgment be rendered on a finding, plea, or verdict of guilty. Such motion shall be granted when upon the whole record no legal judgment can be pronounced. A defendant's failure to

challenge the adequacy of a guilty plea proceeding by motion in arrest of judgment shall preclude his or her right to assert such challenge on appeal."

Rule 23(3)(b).

That rule 23(3)(b) be amended as follows:

"b. Time of making motion by party. The motion must be made ~~before the judgment is pronounced, and shall be filed within six days after finding, plea, or verdict of guilty~~ not later than 45 days after plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction may be rendered, but in any case not later than five days before the date set for pronouncing judgment."

Form 8, Appendix of Forms.

That Form 8, Appendix of Forms, be stricken and the following new Form 8 be substituted:

"Form 8 (front side)

TRIAL INFORMATION

IN THE IOWA DISTRICT COURT FOR _____ COUNTY

THE STATE OF IOWA)	
)	TRIAL INFORMATION
vs.)	
)	No. _____
_____ Defendant)	

COMES NOW _____ as County Attorney of _____ County, Iowa, and in the name and by the authority of the State of Iowa accuses _____ of the crime of _____ committed as follows: The said _____ on or about the ____ day of _____, 19__ in the County of _____ and State of Iowa did unlawfully and willfully

in violation of _____ of The Iowa Criminal Code.
 State of Iowa)
 _____ County) ss.

I, _____, being first duly sworn, do depose and say that I have made a full and careful investigation of the facts upon which the above charge is based and that the allegations contained in the above and foregoing Trial Information are true as I verily believe.

 County Attorney

Subscribed and sworn to by _____
 before me, the undersigned, on _____.

(CLERK OF COURT) (NOTARY PUBLIC) (JUDGE)

On _____ I find that the evidence contained in the within Trial Information and minutes of evidence, if unexplained, would _____ warrant a conviction by the trial jury, and being satisfied from the showing made herein that this case should _____ be prosecuted by Trial Information the same is _____ approved.

- Defendant is released on:
1. personal recognizance _____
 2. appearance bond \$ _____
 - a. unsecured _____
 - b. secured _____
 3. other (specify) _____.

 JUDGE OF THE _____ JUDICIAL
 DISTRICT OF THE STATE OF IOWA"

(Court file stamp)

"Form 8 (back side)

This Trial Information, together with the minutes of evidence relating thereto, is duly filed in the District Court of Iowa for _____ County this _____ day of _____, 19__.

CLERK OF THE DISTRICT COURT OF IOWA FOR _____ COUNTY

By: _____ Deputy Clerk

A TRUE INFORMATION

County Attorney

Names of Witnesses

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ C. Edwin Moore
C. Edwin Moore, Chief Justice

Des Moines, Iowa
January 17, 1978

ACKNOWLEDGMENT

I, Steven C. Cross, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the seventeenth day of January, 1978 of the foregoing report of the Supreme Court of Iowa pertaining to Rules of Criminal Procedure.

/s/ Steven C. Cross
Secretary of the Senate, 1978
Regular Session of the Sixty-
seventh General Assembly of the
State of Iowa.

ACKNOWLEDGMENT

I, David L. Wray, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on this seventeenth day of January, 1978 of the foregoing report of the Supreme Court of Iowa pertaining to Rules of Criminal Procedure.

/s/ David L. Wray
Chief Clerk of the House of
Representatives, 1978 Regular
Session of the Sixty-seventh
General Assembly of the State
of Iowa.

CERTIFICATE

I, Arthur A. Neu, do hereby certify that I am the President of the Senate of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa; and I, Kevin P. Light, do hereby certify that I am the Acting Secretary of the Senate of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa, and we do hereby jointly certify that as such President and Acting Secretary that on the seventeenth day of January, 1978, the Supreme Court of the State of Iowa reported to said Senate, and filed with it, the attached and foregoing Rules of Criminal Procedure;

THAT the date of making said report to the 1978 Regular Session of the Sixty-seventh General Assembly was within the twenty days subsequent to the convening of the 1978 Regular Session of the Sixty-seventh General Assembly;

THAT no other report pertaining to the Rules of Criminal Procedure was made or filed by said Supreme Court with said Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Criminal Procedure were made or enacted at such 1978 Regular Session of said Sixty-seventh General Assembly.

Signed this 16 day of July, 1978, being the last legislative day of the 1978 Regular Session of the Sixty-seventh General Assembly. [See Code §684.19]

/s/ Arthur A. Neu
Arthur A. Neu
President of the Senate

/s/ Kevin P. Light
Kevin P. Light
Acting Secretary of the Senate
1978 Regular Session of the
Sixty-seventh General Assembly
of the State of Iowa

CERTIFICATE

I, Dale M. Cochran, do hereby certify that I am the Speaker of the House of Representatives of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa; and I, David L. Wray, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1978 Regular Session of the Sixty-seventh General Assembly of the State of Iowa, and we do hereby jointly certify that as such Speaker and Chief Clerk that on the seventeenth day of January, 1978, the Supreme Court of the State of Iowa reported to said House of Representatives, and filed with it, the attached and foregoing Rules of Criminal Procedure;

THAT the date of making said report to the 1978 Regular Session of the Sixty-seventh General Assembly was within the twenty days subsequent to the convening of the 1978 Regular Session of the Sixty-seventh General Assembly;

THAT no other report pertaining to the Rules of Criminal Procedure was made or filed by said Supreme Court with said House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Criminal Procedure were made or enacted at such 1978 Regular Session of said Sixty-seventh General Assembly.

Signed this 16th day of July, 1978, being the last legislative day of the 1978 Regular Session of the Sixty-seventh General Assembly. [See Code §684.19]

/s/ Dale M. Cochran

Dale M. Cochran
Speaker of the House

/s/ David L. Wray

David L. Wray
Chief Clerk of the House of
Representatives, 1978 Regular
Session of the Sixty-seventh General
Assembly of the State of Iowa

SENATE CONCURRENT RESOLUTION 121

A CONCURRENT RESOLUTION

AUTHORIZING THE CONSTRUCTION OF AN ADDITION TO THE GENERAL HOSPITAL OF THE STATE UNIVERSITY OF IOWA.

WHEREAS, chapter two hundred sixty-three A (263A) of the Code, provides that the state board of regents after authorization by a constitutional majority of the general assembly may carry out any project as defined in that chapter of the Code at the state university of Iowa; and

WHEREAS, chapter two hundred sixty-three A (263A) of the Code, authorizes the state board of regents to borrow money and to issue and sell negotiable bonds or notes to pay all or any part of the cost of carrying out such projects at the institution payable solely and only from and secured by an irrevocable pledge of a sufficient portion of the university hospital income; and

WHEREAS, many of the facilities of the hospitals at the state university of Iowa were built approximately fifty years ago and are inadequate to meet present and future demands for statewide specialty care and teaching services; and

WHEREAS, five hundred nine beds of the hospitals at the state university of Iowa have been determined by the state department of health to be "nonconforming" and no longer meet modern hospital building codes and standards and, further, detailed studies have shown that upgrading these facilities to modern standards would be prohibitive because of the cost; and

WHEREAS, one hundred nine of the five hundred nine nonconforming beds remain in large open wards, some consisting of twenty-six beds, and do not meet the present day standards relating to infection control, patient privacy, and spatial requirements of a modern tertiary level teaching hospital, and further, detailed studies have shown that remodeling these existing large wards into smaller units would be prohibitive because of the cost while not resolving the basic spatial deficiencies; and

WHEREAS, the growing emphasis on ambulatory care has resulted in an expansion in utilization of outpatient clinic facilities, exceeding the capacity of existing facilities; and

WHEREAS, to alleviate these conditions, the state board of regents requests authorization to construct a vertical addition to the Roy J. Carver Pavilion of approximately one hundred thirty thousand gross square feet to house outpatient clinics and inpatient facilities for one hundred thirty-three beds, and to construct supporting mechanical facilities at an estimated total cost of thirteen million one hundred thirty-five thousand (13,135,000) dollars of which not more than twelve million (12,000,000) dollars would be financed by borrowing under the provisions of chapter two hundred sixty-three A (263A) of the Code, and the remainder to be financed by other funds; NOW THEREFORE,

BE IT RESOLVED BY THE SENATE, THE HOUSE CONCURRING, That the state board of regents is authorized to construct an addition of one hundred thirty thousand gross square feet of floor space, more or less, to the Roy J. Carver Pavilion of the general hospital of the state university of Iowa to house outpatient clinics and inpatient facilities and to construct supporting mechanical facilities at an estimated total cost of thirteen million one hundred thirty-five thousand (13,135,000) dollars of which not more than twelve million (12,000,000) dollars would be financed by borrowing through the issuance of bonds as authorized by the provisions of chapter two hundred sixty-three A (263A) of the Code.

Approved May 12, 1978

SENATE CONCURRENT RESOLUTIONS

- SCR 23 Civil service law, committee to conduct comprehensive study. Introduced, S.J. 1535, first session; Withdrawn, S.J. 113, second session.
- SCR 101 Joint rules of Senate and House. Introduced, S.J. 71, 87, 333.
- SCR 102 General Assembly tribute to memory of Hubert Humphrey, and extension of sympathy to his family. Adopted, S.J. 72, 74; Introduced, H.J. 100-103.
- SCR 103 Health care for rural Iowans, and Iowa Congressmen requested to encourage HEW to alter guidelines regarding availability. Introduced, S.J. 111, 121, 333.
- SCR 104 Older Iowans Model Senate, November 15-17, 1978. Introduced, S.J. 208, 209, 218, 334. [See HCR 108]
- SCR 105 Request Congress submit to the states an amendment to U.S. Constitution that the total federal appropriations made by Congress for any fiscal year not exceed estimated federal revenues for that fiscal year. Introduced, S.J. 308-310, 322, 392. [See HCR 103]
- SCR 106 Procedure for General Assembly to follow on bills vetoed by governor. Introduced, S.J. 328, 329, 351, 440.
- SCR 107 Des Moines office of Department of Housing and Urban Development, maintenance and continuation. Introduced, S.J. 358, 359, 376. [See SCR 109]
- SCR 108 Regional governments, special joint study committee established. Introduced, S.J. 372, 373, 389, 440.
- SCR 109 Des Moines office of Department of Housing and Urban Development, maintenance and continuation. Adopted, S.J. 374, 375, 382, 383; Introduced, H.J. 675, 676. [See SCR 107]
- SCR 110 Recognition of March 20, 1978, as "Iowa Agriculture Day". Introduced, S.J. 382, 403, 440.
- SCR 111 Appointment of joint committee on government operation. Introduced, S.J. 424, 436, 641.
- SCR 112 Public retirement systems, joint select study committee selected. Introduced, S.J. 425, 431, 537.
- SCR 113 University of Okoboji, congratulations to its faculty and alumni for its excellence; board of regents to initiate negotiations to bring the university under its jurisdiction. Introduced, S.J. 503, 504, 552, 592. [See HR 121, HR 134]
- SCR 114 General Assembly Easter recess, Thursday, March 23, 1978 - Tuesday, March 28, 1978. Adopted S.J. 551, 561, 562; Adopted, H.J. 1029, 1062, 1063, 1144.
- SCR 115 Roosevelt High School Roughriders basketball team, congratulations on winning the class 3-A boys basketball tournament. Introduced, S.J. 627, 628, 639, 876. [See HR 125]
- SCR 116 County general relief programs, draft bill LSB 3171, interim committee to study. Introduced, S.J. 638, 639, 715. [See HCR 118]
- SCR 117 William P. Angrick II, approval and confirmation as citizens' aide. Adopted, S.J. 665, 681, 682, 708, 717; Adopted, H.J. 1278, 1282, 1283, 1330.
- SCR 118 Committee to develop, review, revise and prepare bills to further implement recommendations of mental health study. Introduced, S.J. 835-837. [See HCR 139, HCR 146]
- SCR 119 Voucher funding system for support of elementary and secondary schools, joint subcommittee appointed to study. Introduced, S.J. 837, 838, 875, 938, 975.
- SCR 120 Method of determining salaries and increases in salaries of shorthand reporters, joint subcommittee created to investigate. Introduced, S.J. 838, 875, 975.
- SCR 121 Addition to general hospital at State University of Iowa, issuance of bonds. Adopted, S.J. 858-860, 901, 902, 960, 1252, 1478; Adopted, H.J. 1751-1754, 1875, 2186, 2187; Signed by Governor, S.J. 1635; H.J. 2770.
- SCR 122 Township government, interim study committee established. Introduced, S.J. 873, 874, 892, 1123.
- SCR 123 County home rule, ratification of state electorate, interim study committee established. Introduced, S.J. 874, 892, 937, 975, 1468.
- SCR 124 Secondary-age students, access to vocational education programs, task force to study. Introduced, S.J. 936, 937, 1126.
- SCR 125 Thrift certificate guaranty funds, joint subcommittee to study. Introduced, S.J. 956, 972, 1123.
- SCR 126 Iowa State Memorial Union, commemoration for fifty years of outstanding service to university community and people of Iowa. Introduced, S.J. 971, 972, 994, 1123. [See HR 142]
- SCR 127 Railroad and elevator rates, joint study committee appointed. Introduced, S.J. 1014, 1015, 1044.

RESOLUTIONS—Continued

- SCR 128 Product liability, joint subcommittee created to investigate need for legislation. Introduced, S.J. 1015, 1044, 1123. [See SCR 138]
- SCR 129 Motor vehicle registration fee system, joint subcommittee established. Introduced, S.J. 1020, 1021, 1072, 1311.
- SCR 130 Corn check-off funds, General Assembly disapproves collection of corn check-off funds for corn held under government price support loan programs. Introduced, S.J. 1025, 1072.
- SCR 131 "The Future of the Family, II," ISU, designated State of Iowa Conference on the Family. Introduced, S.J. 1065, 1121. [See HCR 123]
- SCR 132 Area vocational schools and area community colleges, allocation of funds, budgeting, joint subcommittee to study. Introduced, S.J. 1065, 1066, 1121, 1635.
- SCR 133 Theory of evolution, teaching in public schools. Introduced, S.J. 1066, 1067, 1121, 1635.
- SCR 134 Automobile theft, interim subcommittee established. Introduced, S.J. 1172, 1199, 1311, 1478.
- SCR 135 Tax Reform Act of 1976, impact upon income and inheritance tax laws, joint subcommittee to study. Introduced, S.J. 1192, 1193, 1237, 1262, 1311. [See HCR 141]
- SCR 136 Interest rates and finance charges, standing committee to study. Adopted, S.J. 1193-1196, 1241, 1361, 1580, 1581; Adopted, H.J. 2746, 2747, 2761-2767.
- SCR 137 Grain handling business in state, regulation, special interim committee established. Introduced, S.J. 1196, 1197, 1237. [See HCR 133]
- SCR 138 Product liability, joint subcommittee created to investigate need for legislation. Introduced, S.J. 1204, 1205, 1261, 1636. [See SCR 128]
- SCR 139 Conservation Commission's administration of land under its jurisdiction, study committee created. Introduced, S.J. 1254, 1295, 1634. [See SCR 146]
- SCR 140 Procedures used by revenue department in valuing public utility property, joint subcommittee appointed to study. Introduced, S.J. 1259, 1260, 1295, 1636.
- SCR 141 State and local government powers, Chapter 28E agreements, interim study committee created. Introduced, S.J. 1325, 1326.
- SCR 142 Special assessment related laws, interim study committee created. Introduced, S.J. 1326.
- SCR 143 Support of the Iowa family farm. Introduced, S.J. 1332, 1333, 1431. [See HCR 104]
- SCR 144 Personnel policies and administration, study of departments, study committee created. Introduced, S.J. 1373, 1374, 1478.
- SCR 145 Senate File 2163, appropriation of funds to social services department, social services budget committee to conduct study. Introduced, S.J. 1377, 1378, 1478.
- SCR 146 Conservation Commission's administration of land under its jurisdiction, study committee created. Introduced, S.J. 1401, 1402, 1478; Withdrawn, S.J. 1492. [See SCR 139]
- SCR 147 State and federal air and water quality rules, committee to examine differences. Introduced, S.J. 1517, 1518, 1522. [See HCR 143]
- SCR 148 Legislative Council to determine priorities of study committees not approved. Introduced, S.J. 1645, 1646, 1694, 1695.
- SCR 149 Adjournment of General Assembly, Friday, June 30, 1978. Introduced, S.J. 1646.
- SCR 150 Adjournment of General Assembly on Saturday, July 1, 1978, shall be for the purpose of reconvening Friday, July 7, 1978, at 10:00 a.m. Adopted, S.J. 1696.
- SCR 151 Legislative expenses of office, when may be paid. Adopted, S.J. 1724-1727; H.J. 2908.
- SCR 152 Adjournment sine die, Sunday, July 16, 1978. Adopted, S.J. 1742-1745; Adopted, H.J. 2932-2935.

HOUSE CONCURRENT RESOLUTIONS

- HCR 101 Governor Ray's state of the state and budget message, joint convention, January 11, 1978. Adopted, H.J. 3, 18; Adopted, S.J. 11.
- HCR 102 Food stamp program, utilization. Introduced, H.J. 3, 4, 38.
- HCR 103 Congress urged to amend U.S. Constitution requiring the total of all federal appropriations for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year. Introduced, H.J. 4-6, 667. [See SCR 105]
- HCR 104 Family farm, General Assembly supports and recognizes need for family farmers to receive profitable return from farming enterprise; copy of resolution to be sent to President Carter, Secretary of Agriculture Bergland, and the Iowa Congressional delegation. Adopted, H.J. 101, 102, 108, 163; Adopted, S.J. 74-76, 87, 111, 115. [See SCR 143]
- HCR 105 General Assembly urges Congress of U.S. to establish a natural landmark in the loess hills in Iowa. Adopted, H.J. 210, 312, 313, 318, 1181; Adopted, S.J. 239, 240, 260, 569, 583, 621, 622, 632.
- HCR 106 West High Falcons football team, Davenport, congratulations to coaching staff, student body and faculty, for their excellence and sportsmanship in winning the 1977 state football championship, class 4-A. Adopted, H.J. 211, 212, 297, 414; Introduced, S.J. 341-343, 359, 440.
- HCR 107 U.S. Congress urged to amend U.S. Constitution which would define the rights of the unborn and more effectively protect the lives of the unborn. Introduced, H.J. 279, 280, 638.
- HCR 108 Older Iowans Model Legislature, November 15-17, 1978, sponsored by Commission on the Aging. Adopted, H.J. 342, 343, 390, 724, 871; Introduced, S.J. 807, 808, 827, 877. [See SCR 104]
- HCR 109 Amendment of Senate Concurrent Resolution No. 4. Adopted, H.J. 365-367, 418, 662-667, 749; Introduced, S.J. 426-428, 436, 537.
- HCR 110 Amendment of joint rules of General Assembly to provide that every legislative bill and amendment which is to be considered by the General Assembly shall contain a statement estimating paperwork to be required by enactment of the bill or amendment. Introduced, H.J. 453.
- HCR 111 Memorandum of agreement providing for Governor Ray, executive officers and heads of state agencies to appear periodically before joint sessions of the General Assembly. Introduced, H.J. 453, 454.
- HCR 112 Midwest rail crisis, urge President of the U.S., the Secretary of Transportation, Federal Railroad Administration, Interstate Commerce Commission and Congress to provide necessary loans and grants to Milwaukee Road. Adopted, H.J. 491, 492, 505, 556, 798, 1706; Adopted, S.J. 472-474, 482, 593, 748, 749, 791, 940.
- HCR 113 Panama Canal, General Assembly expresses sentiment to retain and is against ratification of proposed treaty. Introduced, H.J. 493.
- HCR 114 Commemoration of the week of June 27 - July 1, 1978, as National Autistic Children's Week in Iowa. Adopted, H.J. 586, 587, 636, 792; Introduced, S.J. 635, 825, 826, 849, 877. [See HR 119]
- HCR 115 Investigation of regional governments, special joint study committee established. Introduced, H.J. 607, 608, 779.
- HCR 116 Issuance of commemorative stamp in 1981 paying tribute to Kate Shelley on the one-hundredth anniversary of her act of heroism. Adopted, H.J. 732, 733, 1018, 1160; Introduced, S.J. 826, 827, 849, 877.
- HCR 117 Free enterprise system survival, establishment of an endowed free enterprise professional chair at one of the institutions of higher education. Introduced, H.J. 733, 734, 1051, 1728.
- HCR 118 County general relief programs, modernization of state statutes. Introduced, H.J. 961, 962, 1702. [See SCR 116]
- HCR 119 Identification of public and private buildings for use of physically handicapped persons. Introduced, H.J. 1045, 1046.
- HCR 120 Special charter city of Davenport, interim study committee created to study interaction of special charter cities and their relationship to state in implementation of property assessment procedures. Introduced, H.J. 1481, 1482. [See HCR 126]
- HCR 121 State natural resources and environment, benefit and cost of remote sensing information system, study committee created. Introduced, H.J. 1667, 1668.
- HCR 122 Iowa National Guard, investigation. Introduced, H.J. 1696-1699, 2001, 2002. [See HR 147, HCR 125]
- HCR 123 Designation of "The Future of the Family, II" conference at Iowa State University as the State of Iowa Conference on the Family, to become associated with the White House Conference on the Family. Adopted, H.J. 1986, 1987, 2032, 2053, 2574; Adopted, S.J. 1172, 1173, 1199, 1433, 1637, 1460, 1461. [See SCR 131]

RESOLUTIONS—Continued

- HCR 124 County jails, investigation, interim joint subcommittee created. Introduced, H.J. 1987, 1988.
- HCR 125 Iowa National Guard, investigation, government operations committee established. Adopted, H.J. 1988-1991, 1997, 2166, 2167, 2775; Introduced, S.J. 1214-1217, 1261, 1637. [See HCR 122, HR 147]
- HCR 126 Special charter cities, property assessment procedures, interim study committee created. Introduced, H.J. 2025, 2026. [See HCR 120]
- HCR 127 Tax abatement provisions of urban revitalization program, study committee created. Introduced, H.J. 2003, 2026. [See HCR 149]
- HCR 128 State individual income tax, removal of inequity between married couples filing jointly and married couples filing separately on a combined return, interim joint study committee created. Introduced, H.J. 2027.
- HCR 129 Intangible personal property taxation, interim committee appointed to study. Introduced, H.J. 2027, 2028.
- HCR 130 Legislative budget, projected expenditures for the legislature for the fiscal year beginning July 1, 1978, chief clerk of the House and secretary of the Senate to prepare. Introduced, H.J. 2100, 2101.
- HCR 131 Establishment of separate hazardous occupation provision under IPERS for sheriffs and deputy sheriffs, interim joint subcommittee created. Introduced, H.J. 2105, 2106.
- HCR 132 Mandatory retirement on the basis of age, H.F. 419, interim legislative study authorized. Introduced, H.J. 2256, 2257.
- HCR 133 Grain handling business in state, regulation, special interim study committee established. Introduced, H.J. 2280-2282. [See SCR 137]
- HCR 134 Management and labor disagreement at Delavan Corporation, resumption of collective bargaining urged. Adopted, H.J. 2285-2287; Adopted, S.J. 1284, 1311.
- HCR 135 Delivery of in-home health services, study committee created. Introduced, H.J. 2378, 2379.
- HCR 136 Procedures for awarding and evaluating grants from the department of substance abuse to local substance abuse programs, study committee created. Introduced, H.J. 2379, 2380.
- HCR 137 Commission on Aging, administrative structure, programming and funding, study committee created. Introduced, H.J. 2380, 2381.
- HCR 138 Iowa Medal of Valor, urge governor to establish. Introduced, H.J. 2381, 2382.
- HCR 139 Mental health study conducted by General Assembly in 1977, committee to review, revise and prepare bills to submit to the 68th General Assembly to further implement recommendations. Introduced, H.J. 2382-2384. [See HCR 146, SCR 118]
- HCR 140 Resource recovery systems within state, interim study committee appointed. Introduced, H.J. 2384.
- HCR 141 Tax Reform Act of 1976, impact on state income tax and inheritance tax law, joint subcommittee appointed. Introduced, H.J. 2384, 2385. [See SCR 135]
- HCR 142 Review of expenditures, inventory and contractual obligations of the 68th General Assembly, first session, by certified public accountant firm. Introduced, H.J. 2575, 2576.
- HCR 143 State and federal air and water quality rules, interim study committee to examine differences. Introduced, H.J. 2770, 2771. [See SCR 147]
- HCR 144 Civil liability for the manufacture, distribution and sale of products, joint subcommittee created. Introduced, H.J. 2771, 2772.
- HCR 145 Transportation industry, study committee created. Introduced, H.J. 2772.
- HCR 146 Mental health study conducted by General Assembly in 1977, committee to review, revise and prepare bills to submit to the 68th General Assembly to further implement recommendations. Adopted, H.J. 2751-2753, 2777; Introduced, S.J. 1646-1648, 1696. [See HCR 139, SCR 118]
- HCR 147 Nuclear power in state, interim subcommittee established. Introduced, H.J. 2773, 2774.
- HCR 148 Adjournment, July 1, 1978, Sixty-seventh General Assembly, second session. Adopted, H.J. 2865, 2866; Introduced, S.J. 1680, 1681, 1694, 1695.
- HCR 149 Revitalization area of cities, improvements, property tax exemptions. Adopted, H.J. 2902-2907, 2932; Adopted, S.J. 1723-1725, 1742. [See HCR 127]
- HCR 150 Rail assistance fund, appropriation. Introduced, H.J. 2937.

SENATE RESOLUTIONS

- SR 101 Appointments, amendment of Senate Rule 59, voting. Adopted, S.J. 13, 14.
- SR 102 Senate Code of Ethics, amend and adopt as in 1977. Adopted, S.J. 59, 259.
- SR 103 Rules governing lobbyists for 1978 session. Adopted, S.J. 120, 137, 293-296.
- SR 104 Reportable expenditures by senators, suspension of Senate Rule 21 governing lobbyists until effective date of a law which would permit such expenditures. Introduced, S.J. 329, 351, 440.
- SR 105 Solar energy, energy committee to study during interim. Introduced, S.J. 559, 560.
- SR 106 Steven C. Cross, expression of appreciation for service. Adopted, S.J. 647, 648.
- SR 107 Energy, committee to study derivation of fuel from agricultural products. Introduced, S.J. 891, 892.
- SR 108 City of Ottumwa, congratulations on its recognition as "All American City". Introduced, S.J. 892, 913, 1123. [See HR 136]
- SR 109 District judges, committee to study judicial formula. Introduced, S.J. 971, 994, 1123.
- SR 110 Bloomer School, Council Bluffs, congratulations on being the winner of the Fifth Congressional District Safety Patrol Contest. Introduced, S.J. 1225, 1261, 1635. [See HR 140]
- SR 111 Amtrak rail passenger service, officials urged to reconsider plan to drop the Iowa portion of Amtrak's San Francisco Zephyr route. Introduced, S.J. 1365, 1478, 1634, 1635.
- SR 112 Hon. Philip B. Hill, Senate extends sincere appreciation for his services and efforts expended to improve the legislative process. Adopted, S.J. 1334, 1385.
- SR 113 Hazardous waste disposal, interim study committee created. Introduced, S.J. 1437, 1438.
- SR 114 Hon. Warren Curtis, Senate extends sincere appreciation for his services to the General Assembly and to the people of the state. Adopted, S.J. 1474.
- SR 115 Hon. Roger Shaff, Senate extends sincere gratitude for his years of legislative service and contributions to the people of Iowa. Adopted, S.J. 1576, 1577.
- SR 116 Hon. Minnette Doderer, Senate extends sincere appreciation for her efforts and accomplishments as a member of the General Assembly. Adopted, S.J. 1577, 1578.
- SR 117 Hon. E. Kevin Kelly, Senate extends sincere gratitude for his years of legislative service and substantial contributions. Adopted, S.J. 1578, 1579.
- SR 118 Lt. Gov. Arthur A. Neu, Senate extends sincere appreciation and gratitude for his contributions to the Senate and the people of the state. Adopted, S.J. 1579, 1580.
- SR 119 Hon. Cliff Burroughs, Senate extends sincere appreciation for his years of legislative service and contributions to people of the state. Adopted, S.J. 1692, 1693.
- SR 120 Hon. Eugene Hill, Senate extends sincere gratitude for his many years of legislative service and his contributions to the people of this state; and presentation of chair. Adopted, S.J. 1693, 1694.
- SR 121 Hon. Louis P. Culver, Senate expresses sincere appreciation for his contributions to the General Assembly and to the people of the state. Adopted, S.J. 1695, 1696.
- SR 122 Use of Amtrak facilities for mail delivery services, Congress encouraged to enact legislation. Introduced, S.J. 1704, 1705.
- SR 123 Bernard J. Vogelgesang, Director of Court Services, Fifth Judicial District, Senate extends sincerest gratitude and heartfelt appreciation for his years of service and numerous contributions to the people of the state. Adopted, S.J. 1705-1708.
- SR 124 Marvin R. Selden, Jr., Senate extends sincere gratitude and appreciation for his years of service and numerous contributions to the state. Adopted, S.J. 1719, 1720, 1721.

HOUSE RESOLUTIONS

- HR 101 Manilla Hawks and Manilla Community School District, general assembly salutes and honors for winning 1977 class 1-A high school football championship. Adopted, H.J. 136, 201, 336.
- HR 102 Withholding by state comptroller of federal income taxes from legislative per diem expense of office allowance. Adopted, H.J. 184-186.
- HR 103 Capitol parking lot difficulties with use of plastic cards. Introduced, H.J. 280, 281, 1144.
- HR 104 Nishna Valley Gasohol Association, commendation for efforts in promoting the study of the use and potential of gasohol. Adopted, H.J. 343, 407, 539, 540.
- HR 105 City of Whittemore, congratulations on the centennial anniversary of its incorporation this year. Adopted, H.J. 344, 376, 481.
- HR 106 City of Sanborn, congratulations on the centennial anniversary of its incorporation this year. Adopted, H.J. 344, 376, 481.
- HR 107 City of Emmetsburg, congratulations on its eighteenth year of observance of St. Patrick's Day. Adopted, H.J. 454, 455, 552, 649.
- HR 108 Peace Reformed Church, Garner, congratulations to church and members of congregation upon reaching centennial year of existence. Adopted, H.J. 493, 872, 1029.
- HR 109 Beef grading and labeling regulations, USDA proposed changes, further study required by a task force before promulgation. Adopted, H.J. 608, 609, 751, 960.
- HR 110 City of Audubon, congratulations on the centennial anniversary of its founding and for the achievements of this industrious community. Adopted, H.J. 645, 646, 1115, 1261.
- HR 111 City of Brayton, congratulations on its centennial anniversary. Adopted, H.J. 646, 1115, 1261.
- HR 112 American Red Magen David for Israel, commendation for its outstanding record of dedicated and highly effective service on behalf of Magen David Adom. Adopted, H.J. 735, 931, 2221, 2386.
- HR 113 Dowling High School wrestling team, congratulations on winning the class 3-A state wrestling team championship. Adopted, H.J. 735, 736, 943.
- HR 114 City of Salix, congratulations for overcoming its financial crisis. Adopted, H.J. 823, 962, 963, 1090.
- HR 115 City of Mapleton, congratulations on the commemoration of the centennial anniversary of its incorporation. Adopted, H.J. 823, 824, 963, 1091.
- HR 116 City of Britt, congratulations on the one-hundredth anniversary of its founding and best wishes for success in holding this year's Hobo Convention. Introduced, H.J. 898.
- HR 117 Ankeny High School girls basketball team, congratulations on winning state championship. Adopted, H.J. 972, 973, 1329, 1429.
- HR 118 West High Falcons football team, Davenport, congratulations on winning the 1977 state football championship, class 4-A. Adopted, H.J. 1046, 1047, 1081, 1232.
- HR 119 Recognition of the week of June 27 - July 1, 1978 as National Autistic Children's Week in Iowa. Adopted, H.J. 1047, 1048, 1081, 1232. [See HCR 114]
- HR 120 City of Newburg, congratulations to community in commemoration of its centennial anniversary. Adopted, H.J. 1048, 1115, 1261.
- HR 121 University of Okoboji, congratulations to its faculty and alumni for its excellence; board of regents to initiate negotiations to bring the university under its jurisdiction. Introduced, H.J. 1080, 1081, 1116, 1128. [See HR 134, SCR 113]
- HR 122 Denison Monarchs basketball team, congratulations on winning the class II state basketball championship and the sportsmanship award. Adopted, H.J. 1089, 1090, 1146, 1283.
- HR 123 Columbus High School boys hockey team, Waterloo, congratulations on winning the state hockey championship. Adopted, H.J. 1090, 2221, 2386.
- HR 124 Regina High School "Runnin' Regals," Iowa City, congratulations on winning the class 1-A state basketball championship. Adopted, H.J. 1119, 1120, 1512, 1669.
- HR 125 Roosevelt High School Roughriders, Des Moines, congratulations on winning the 1978 class 3-A state high school boys basketball championship. Adopted, H.J. 1145, 1224, 1315. [See SCR 115]
- HR 126 Nashua High School wrestling team, congratulations on winning third place in state wrestling championship tournament, class A. Introduced, H.J. 1152, 1153.
- HR 127 Lisbon High School wrestling team, congratulations on winning 1978 class A state wrestling championship. Adopted, H.J. 1153, 1298, 1429.
- HR 128 Congratulations extended to the wrestling teams of Iowa's three state universities: The University of Iowa, Iowa State University, and the University of Northern Iowa on their national reputation for wrestling excellence. Adopted, H.J. 1174, 1224, 1298, 1429.

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- HR 129 Emmetsburg High School football team, congratulations on winning 1977 class 3 state football championship; to high school wrestling squad for winning 1978 class 2-A state wrestling championship; and to high school E-Hawks for taking third place in the class 2-A boys' basketball tournament. Adopted, H.J. 1261, 1298, 1429.
- HR 130 Congratulations to citizens of Elkader and volunteer fire departments from surrounding communities for their co-operative efforts in fighting major fire. Adopted, H.J. 1334, 1335, 1827, 2052.
- HR 131 Lake View-Auburn High School girls basketball team, congratulations on winning second place in the girls state basketball tournament. Adopted, H.J. 1335, 1512, 1669.
- HR 132 May 3, 1978 proclaimed as "Sun Day". Adopted, H.J. 1349, 1439.
- HR 133 Boone campus of the Des Moines Area Community College, formerly Boone Junior College, congratulations on its fiftieth commencement as a community college. Adopted, H.J. 1463, 1464, 1700, 1920.
- HR 134 University of Okoboji, congratulations to its faculty and alumni for its commendable service to the community in which it is located. Adopted, H.J. 1581, 1582, 1608, 1835. [See HR 121, SCR 113]
- HR 135 Minimal competency testing in schools in state, task force established to study feasibility of implementation. Introduced, H.J. 1582, 1583.
- HR 136 City of Ottumwa, congratulations on its recognition as "All American City". Introduced, H.J. 1583. [See SR 108]
- HR 137 City of Toledo, congratulations on the one hundred twenty-fifth anniversary of its founding. Adopted, H.J. 1669, 1775, 2007.
- HR 138 City of Protivin, congratulations on the centennial anniversary of its founding. Adopted, H.J. 1699, 1700, 1827, 2052.
- HR 139 Lake View-Auburn High School boys basketball team, congratulations on winning second place in the class A boys state basketball tournament. Adopted, H.J. 1774, 1827, 2052, 2053.
- HR 140 Bloomer School, Council Bluffs, congratulations on winning 30th Annual School Safety Patrol Contest. Adopted, H.J. 1774, 1872, 2107. [See SR 110]
- HR 141 Tri-County Community High School girls track team, congratulations on winning first place in state indoor track meet. Adopted, H.J. 1880, 1994, 2229.
- HR 142 Iowa State Memorial Union, Iowa State University, commemoration for fifty years of outstanding service to the university community and the people of Iowa. Adopted, H.J. 1991, 1992, 2049, 2257. [See SCR 126]
- HR 143 Hon. Elmer Den Herder, presentation of chair in tribute of his twenty-two years of service in an effort to improve the quality of life for Iowans. Adopted, H.J. 1992, 2007.
- HR 144 Sigourney Community High School, congratulations on winning second place in state football playoffs in the fall of 1976. Adopted, H.J. 1992, 1993, 2049, 2257.
- HR 145 Hon. Russell L. "Dutch" Wyckoff, recognition by House for his outstanding record of attendance during the Sixty-fourth, Sixty-fifth, Sixty-sixth and Sixty-seventh sessions. Adopted, H.J. 2643, 2644.
- HR 146 Presentation of chair to the Speaker of the House. Adopted, H.J. 2644, 2645.
- HR 147 Iowa National Guard, investigation. Adopted, H.J. 2751, 2753-2756. [See HCR 122, HCR 125]
- HR 148 Senate File 2201, regulation of receipt of gifts by an official, interim study committee established. Introduced, H.J. 2774.
- HR 149 City of Grafton, congratulations on its centennial anniversary. Introduced, H.J. 2937.

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227.10	1085	275.25	1096	321.393	1113
227.11	1085	275.33	1096	321.435	1113
227.16	1085	279.3	1100	321.437	1113
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