State of Iowa
1982

ACTS AND JOINT RESOLUTIONS

PASSED AT THE

1982 REGULAR SESSION

OF THE

Sixty-ninth General Assembly

OF THE

STATE OF IOWA

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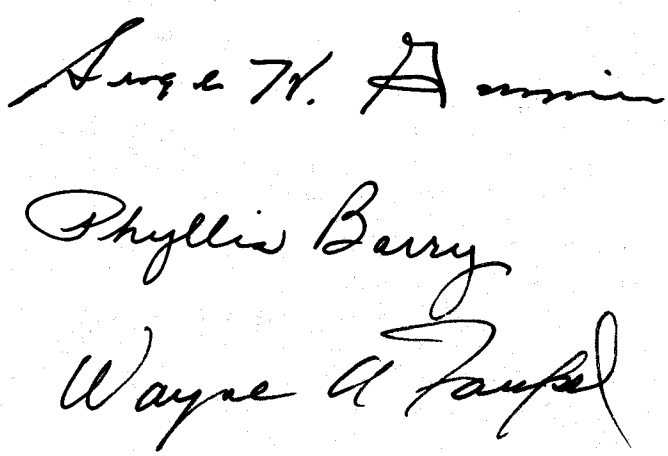
CERTIFICATE

STATE OF IOWA
Office of Code Editor

We, Serge H. Garrison, Acting Code Editor, Wayne A. Faupel, Code Consultant, and Phyllis Barry, Deputy Code Editor, of the Code of Iowa, do hereby certify that the Acts, laws, 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 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa.



April 1982

Section 622.59 of the 1981 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 1982 Regular Session of the Sixty-ninth 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.

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

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STATE ROSTER

List of elective state officers, judges of the supreme and appellate courts, and members of the General Assembly, the State of Iowa, inserted in the published volume of 1982 Session Laws for the Sixty-ninth General Assembly in accordance with the requirements of Iowa Code section 14.10(4), 1981.

ELECTIVE OFFICERS

Name and Office	County from which originally chosen

GOVERNOR

ROBERT D. RAY ..... Polk
David A. Oman, Executive Assistant ..... Black Hawk

LIEUTENANT GOVERNOR

TERRY E. BRANSTAD ..... Winnebago

SECRETARY OF STATE

MARY JANE ODELL ..... Polk

AUDITOR OF STATE

RICHARD D. JOHNSON ..... Polk
Richard C. Fish, Deputy - Administration ..... Polk
Warren G. Jenkins, Deputy - Local Government Audit Division ..... Polk
Kasey K. Kiplinger, Deputy - State Audit Division ..... Polk
John A. Pringle, Director - Financial Institutions Division ..... Polk

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

THOMAS J. MILLER ..... Clayton
Mark E. Schantz, Solicitor General ..... Johnson

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Clay LeGrand	Davenport	Dec. 31, 1984
Harvey Uhlenhopp	Hampton	Dec. 31, 1988
W. Ward Reynoldson, C.J.	Des Moines	Dec. 31, 1988
K. David Harris	Jefferson	Dec. 31, 1982
Mark McCormick	Des Moines	Dec. 31, 1982
A. A. McGiverin	Ottumwa	Dec. 31, 1988
Jerry L. Larson	Harlan	Dec. 31, 1988
Louis W. Schultz	Iowa City	Dec. 31, 1982
James H. Carter	Cedar Rapids	Dec. 31, 1984

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Leo E. Oxberger, C.J.	Des Moines	Dec. 31, 1983
Allen L. Donielson	Des Moines	Dec. 31, 1983
Bruce M. Snell, Jr.	Ida Grove	Dec. 31, 1984
Janet Johnson	Des Moines	Dec. 31, 1986
Vacancy		Dec. 31, 1982

CONGRESSIONAL DIRECTORY

UNITED STATES SENATORS

Roger W. Jepsen, Davenport ..... Dec. 31, 1984
Charles E. Grassley, New Hartford ..... Dec. 31, 1986

UNITED STATES REPRESENTATIVES

District		
1	James Leach, Davenport	Dec. 31, 1982
2	Tom Tauke, Dubuque	Dec. 31, 1982
3	Cooper Evans, Grundy Center	Dec. 31, 1982
4	Neal Smith, Altoona	Dec. 31, 1982
5	Tom Harkin, Ames	Dec. 31, 1982
6	Berkley Bedell, Spirit Lake	Dec. 31, 1982

GENERAL ASSEMBLY

MEMBERS OF THE SENATE—SIXTY-NINTH GENERAL ASSEMBLY—1982 REGULAR SESSION

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Anderson, Ted	Waterloo	38	Factory Worker-Deere & Company	18th—*Black Hawk*	69(1st), 69X, 69XX
Baugher, Gary L. *	Ankeny	39	Mobile Home Park Owner-Sales	31st—*Polk*	68 (2nd), 69(1st), 69X, 69XX
Bisenius, Stephen W. *	Cascade	34	Realtor	11th—Delaware, *Dubuque*, Jackson, Jones	67, 67X, 68, 69(1st), 69X, 69XX
Briles, James E.	Corning	55	Auctioneer-Real Estate	48th—Adair, *Adams*, Cass, Guthrie, Montgomery, Page, Ringgold, Taylor, Union	56, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Brown, Joe *	Montezuma	30	State Senator	35th—Jasper, Mahaska, Marion, Polk, *Poweshiek*, Warren	68, 69(1st), 69X, 69XX
Carney, Clarence *	Sioux City	56	Utility Executive	25th—Cherokee, Plymouth, *Woodbury*	68, 69(1st), 69X, 69XX
Carr, Robert M.	Dubuque	44	Securities Broker	10th—*Dubuque*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Coleman, C. Joseph *	Clare	58	Farmer-Businessman	23rd—Humboldt, *Webster*	57, 58, 59, 60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Comito, Richard *	Waterloo	42	Pharmacist	17th—*Black Hawk*	68, 69(1st), 69X, 69XX
Craft, Rolf V.	Decorah	44	Farmer-Teacher	8th—Bremer, Chickasaw, Fayette, Howard, *Winneshiek*	67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE SENATE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION — Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
DeKoster, Lucas J. *	Hull	63	Lawyer-Insurance Agent	1st — Lyon, Plymouth, *Sioux*	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Deluhery, Patrick J. *	Davenport	39	College Teacher	41st — *Scott*	68, 69(1st), 69X, 69XX
Doyle, Donald V.	Sioux City	56	Lawyer	26th — Monona, *Woodbury*	57, 58, 61, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Drake, Richard F.	Muscatine	54	Farming	38th — Johnson, Louisa, *Muscatine*, Scott	63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Dreeszen, Elvie	Cushing	61	Farmer	24th — Buena Vista, Calhoun, Carroll, Cherokee, Crawford, Greene, *Ida*, Pocahontas, Sac	69(1st), 69X, 69XX
Gallagher, James V.	Jesup	48	Telephone Company	16th — Benton, *Black Hawk*, Buchanan, Linn, Tama	61, 62, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Gentleman, Julia B. *	Des Moines	50	Housewife	33rd — *Polk*	66, 67, 67X, 68, 69(1st), 69X, 69XX
Goodwin, Norman J. *	DeWitt	68	Legislator	39th — *Clinton*, Scott	68, 69(1st), 69X, 69XX
Gratias, Arthur L. *	Nora Springs	61	Farmer-Educator	7th — Cerro Gordo, Chickasaw, *Floyd*, Howard, Mitchell	68, 69(1st), 69X, 69XX
Hester, Jack W. *	Honey Creek	52	Farmer	27th — Crawford, Harrison, Monona, *Pottawattamie*, Shelby	68, 69(1st), 69X, 69XX
Holden, Edgar H.	Davenport	67	Entrepreneur	40th — *Scott*	62, 63, 64, 65, 67 (2nd), 68, 69(1st), 69X, 69XX
Hulse, Merlin D.	Clarence	58	Farmer	12th — *Cedar*, Clinton, Jackson, Johnson, Jones, Scott	67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE SENATE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION — Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Hultman, Calvin O. *	Red Oak	40	Businessman	49th — Fremont, Mills, *Montgomery*, Page, Pottawattamie	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Husak, Emil J.	Toledo	51	Farmer	36th — Benton, Iowa, Johnson, Keokuk, Poweshiek, *Tama*	64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Hutchins, Bill	Guthrie Center	50	Self-employed-Small Businessman	28th — Audubon, Carroll, Cass, Crawford, Greene, *Guthrie*, Shelby	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Jensen, John W. *	Plainfield	55	Farmer	19th — Black Hawk, *Bremer*, Butler, Floyd, Franklin, Grundy, Marshall, Tama	68, 69(1st), 69X, 69XX
Junkins, Lowell L. *	Montrose	37	Small Businessman-Farmer	43rd — Des Moines, Henry, *Lee*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Kinley, George R.	Des Moines	44	Owner-Operator of Golf Sales	34th — *Polk*, Warren	64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Kudart, A. R. (Bud) *	Cedar Rapids	51	Lawyer	13th — Johnson, *Linn*	68, 69(1st), 69X, 69XX
Lura, Mick	Marshalltown	33	Accountant	20th — Grundy, Hardin, Jasper, *Marshall*, Story	68, 69(1st), 69X, 69XX
Miller, Alvin V.	Ventura	60	Business-Insurance	6th — *Cerro Gordo*, Worth	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Miller, Charles P.	Burlington	63	Doctor of Chiropractic	42nd — *Des Moines*, Henry, Louisa	60, 60X, 61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Murray, John S. *	Ames	42	Attorney	21st — Boone, Polk, *Story*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE SENATE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION — Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Nystrom, John N.	Boone	48	Auto Dealer	22nd — *Boone*, Greene, Hamilton, Story, Webster	64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Palmer, William D.	Des Moines	46	Insurance	32nd — *Polk*	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Priebe, Berl E.	Algona	63	Farmer-Businessman	4th — Emmet, Hancock, Humboldt, *Kossuth*, Palo Alto, Pocahontas, Winnebago	63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Ramsey, Dick *	Osceola	41	Lawyer-Farmer	47th — Appanoose, *Clarke*, Decatur, Lucas, Madison, Monroe, Ringgold, Union, Wayne	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Readinger, David M.	Des Moines	46	Sales	30th — *Polk*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Rodgers, Norman *	Adel	54	Farmer-Businessman	29th — Adair, Clarke, *Dallas*, Guthrie, Madison, Warren	63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Rush, Bob *	Cedar Rapids	37	Lawyer	15th — *Linn*	67, 67X, 68, 69(1st), 69X, 69XX
Schwengels, Forrest V.	Fairfield	66	Real Estate	44th — Henry, *Jefferson*, Keokuk, Lee, Van Buren, Wapello, Washington	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Slater, Tom	Council Bluffs	36	Businessman	50th — *Pottawattamie*	67, 67X, 68, 69(1st), 69X, 69XX
Small, Arthur A., Jr. *	Iowa City	48	Businessman	37th — *Johnson*	64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Taylor, Ray *	Steamboat Rock	58	Farming-Retailing	5th — Cerro Gordo, Franklin, Hancock, *Hardin*, Wright	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE SENATE—SIXTY-NINTH GENERAL ASSEMBLY—1982 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Senatorial District	Former Legislative Service
Tieden, Dale L. *	Elkader	59	Farmer	9th—Allamakee, *Clayton*, Delaware, Dubuque, Fayette, Winneshiek	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Vande Hoef, Richard	Harris	56	Farming	2nd—Clay, Dickinson, Emmet, Lyon, O'Brien, *Osceola*, Palo Alto, Sioux	69(1st), 69X, 69XX
Van Gilst, Bass	Oskaloosa	70	Farming	46th—Keokuk, Lucas, *Mahaska*, Marion, Monroe, Poweshiek, Warren	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Waldstein, Arne *	Storm Lake	56	Professional Farm Manager-Appraiser	3rd—*Buena Vista*, Cherokee, Clay, O'Brien, Palo Alto, Plymouth, Pocahontas	68, 69(1st), 69X, 69XX
Wells, James D.	Cedar Rapids	53	Cereal Company Employee	14th—Benton, *Linn*	63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Yenger, Sue *	Ottumwa	43	Housewife-Teacher	45th—Appanoose, Davis, Mahaska, Monroe, *Wapello*	68, 69(1st), 69X, 69XX

*Holdover senators in 69 G.A.

MEMBERS OF THE HOUSE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Anderson, James O.	Brayton	53	Farmer	56th — *Audubon*, Carroll, Cass, Crawford, Greene, Guthrie, Shelby	68, 69(1st), 69X, 69XX
Anderson, Robert T.	Newton	36	Teacher	69th — *Jasper*, Marion, Polk, Warren	66, 67, 67X, 68, 69(1st), 69X, 69XX
Arnould, Robert C.	Davenport	28	Legislator	82nd — *Scott*	67(2nd), 67X, 68, 69(1st), 69X, 69XX
Avenson, Donald D.	Oelwein	37	Tool & Die Maker	15th — Bremer, Chickasaw, *Fayette*, Howard, Winneshiek	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Baxter, Elaine *	Burlington	48	Legislator	84th — *Des Moines*	None
Bennett, Wayne	Galva	54	Farmer	48th — Buena Vista, Carroll, Cherokee, Crawford, *Ida*, Sac	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Binneboese, Donald H.	Hinton	57	Farmer	49th — Cherokee, *Plymouth*, Woodbury	66(2nd)*, 67, 67X, 68, 69(1st), 69X, 69XX
Brandt, Diane	Cedar Falls	43	Legislator	35th — *Black Hawk*	66, 67, 67X, 68, 69(1st), 69X, 69XX
Branstad, Clifford O.	Thompson	57	Farmer	8th — Emmet, Hancock, Kossuth, *Winnebago*	68, 69(1st), 69X, 69XX
Bruner, Charles H.	Ames	33	Teacher	41st — *Story*	68, 69(1st), 69X, 69XX
Byerly, Richard L.	Ankeny	43	Community College Administrator	61st — *Polk*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Carl, Janet	Grinnell	33	Educator	71st — Benton, Iowa, *Poweshiek*, Tama	69(1st), 69X, 69XX

MEMBERS OF THE HOUSE—SIXTY-NINTH GENERAL ASSEMBLY—1982 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Carpenter, Dorothy F.	West Des Moines	48	Housewife-Volunteer	66th—*Polk*	69(1st), 69X, 69XX
Chiodo, Ned F.	Des Moines	39	Small Businessman	67th—*Polk*	67, 67X, 68, 69(1st), 69X, 69XX
Clark, Betty Jean	Rockwell	61	Homemaker	11th—*Cerro Gordo*	67, 67X, 68, 69(1st), 69X, 69XX
Clark, John H.	Keokuk	35	Stockbroker	86th—Henry, *Lee*	64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Clements, James B.	Davenport	27	Carpenter	80th—*Scott*	69(1st), 69X, 69XX
Cochran, Dale M.	Eagle Grove	53	Farmer	45th—Humboldt, *Webster*	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Conlon, Walter	*Muscatine*	34	Lawyer	76th—*Muscatine*, Scott	67, 67X, 68, 69(1st), 69X, 69XX
Connolly, Michael W.	Dubuque	36	Realtor-Teacher	20th—*Dubuque*	68, 69(1st), 69X, 69XX
Connors, John H.	Des Moines	59	Insurance and Labor Arbitrator	64th—*Polk*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Cook, Lisle	Hubbard	45	Farmer	40th—Grundy, *Hardin*, Jasper, Marshall, Story	69(1st), 69X, 69XX
Copenhaver, Paul †	Independence	40	Farmer	32nd—Black Hawk, *Buchanan*	None
Corey, Virgil E.	Morning Sun	65	Farmer	83rd—Des Moines, Henry, *Louisa*	68, 69(1st), 69X, 69XX
Crabb, Frank	Denison	78	Retired	53rd—*Crawford*, Harrison, Monona	63, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE HOUSE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION — Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Daggett, Horace	Lenox	50	Farmer	96th — Adams, Montgomery, Page, Ringgold, *Taylor*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Danker, Arlyn E.	Minden	54	Farmer	54th — Harrison, *Pottawattamie*, Shelby	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Davitt, Philip A.	St. Charles	50	Farmer	58th — Adair, Clarke, Dallas, Madison, *Warren*	67, 67X, 68, 69(1st), 69X, 69XX
De Groot, Kenneth R.	Doon	52	Farmer	1st — *Lyon*, Sioux	68, 69(1st), 69X, 69XX
Dieleman, William W. (Bill)	Pella	50	Life Insurance Underwriter	70th — Jasper, Mahaska, *Marion*, Poweshiek	66, 67, 67X, 68, 69(1st), 69X, 69XX
Diemer, Marvin E.	Cedar Falls	57	Accountant	36th — *Black Hawk*	68, 69(1st), 69X, 69XX
Doderer, Minnette	Iowa City	58	Self-Employed	74th — *Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69(1st), 69X, 69XX
Egenes, Sonja	Story City	51	Legislator-Homemaker	43rd — Boone, Hamilton, *Story*, Webster	64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Fey, Thomas H. *	Davenport	27	Training Coordinator	81st — *Scott*	None
Gettings, Donald E.	Ottumwa	58	Machine Repairman	90th — Appanoose, Davis, *Wapello*	67(2nd)*, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE HOUSE—SIXTY-NINTH GENERAL ASSEMBLY—1982 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Gross, L. W. (Joe)	Mt. Ayr	56	Nursing Home Owner-Administrator	94th—Clarke, Decatur, Madison, *Ringgold*, Union, Wayne	69(1st), 69X, 69XX
Groth, Richard	Albert City	35	Educator	6th—*Buena Vista*, Cherokee, Clay, O'Brien, Palo Alto, Pocahontas	68, 69(1st), 69X, 69XX
Hall, Hurley W.	Marion	46	Engineer	29th—*Linn*	68, 69(1st), 69X, 69XX
Halvorson, Rodney	Fort Dodge	32	Real Estate Salesman	46th—*Webster*	68, 69(1st), 69X, 69XX
Halvorson, Roger A.	Monona	47	Insurance-Real Estate Sales	17th—Allamakee, *Clayton*, Winneshiek	66, 67, 67X, 68, 69(1st), 69X, 69XX
Hansen, Ingwer L.	Hartley	69	Retired	3rd—Clay, Dickinson, Lyon, *O'Brien*, Osceola, Sioux	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Hanson, Darrell R.	Manchester	27	Legislator	18th—Clayton, *Delaware*, Dubuque, Fayette	68, 69(1st), 69X, 69XX
Harbor, William H.	Henderson	61	Grain Elevator Owner-Operator	97th—Fremont, *Mills*, Montgomery, Page	56, 57, 58, 62, 63, 64, 67, 67X, 68, 69(1st), 69X, 69XX
Hoffmann-Bright, Betty A.	Muscatine	60	Former Businesswoman	75th—Johnson, Louisa, *Muscatine*	67, 67X, 68, 69(1st), 69X, 69XX
Holt, Leander (Lee)	Spencer	72	Automobile Dealer	4th—*Clay*, Dickinson, Emmet, Palo Alto	68, 69(1st), 69X, 69XX
Horn, Wally E.	Cedar Rapids	48	Teacher	28th—*Linn*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Howell, Rollin K.	Marble Rock	52	Farmer	13th—Cerro Gordo, *Floyd*, Mitchell	65*, 66, 67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE HOUSE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION — Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Hummel, Kyle	Vinton	46	Contractor-Realtor	31st — *Benton*, Black Hawk, Buchanan, Linn, Tama	68, 69(1st), 69X, 69XX
Jay, Daniel	Centerville	27	Lawyer	93rd — *Appanoose*, Clarke, Lucas, Monroe, Wayne	68, 69(1st), 69X, 69XX
Jochum, Thomas J.	Dubuque	30	Laborer	19th — *Dubuque*	66, 67, 67X, 68, 69(1st), 69X, 69XX
Johnson, James	Elma	42	Businessman	14th — Chickasaw, Floyd, *Howard*, Mitchell	68, 69(1st), 69X, 69XX
Johnson, Robert M. L.	Cedar Rapids	60	Marketing Manager	26th — *Linn*	68, 69(1st), 69X, 69XX
Johnson, Warren	Sloan	59	Farmer	52nd — Monona, *Woodbury*	68, 69(1st), 69X, 69XX
Kirkenslager, Larry K. **	Burlington	37	Electrician-Salesman	84th — *Des Moines*	68, 69(1st), 69X, 69XX
Knapp, Don *	Cascade	49	Corrections	22nd — Delaware, *Dubuque*, Jackson, Jones	None
Krewson, Lyle R.	Urbandale	38	Self-Employed	59th — *Polk*	67, 67X, 68, 69(1st), 69X, 69XX
Lageschulte, Raymond	Waverly	59	Farmer-Insurance Adjuster	37th — Black Hawk, *Bremer*, Butler, Floyd	66, 67, 67X, 68, 69(1st), 69X, 69XX
Lind, Thomas A.	Waterloo	63	Sales	33rd — *Black Hawk*	67(2nd), 68, 69(1st), 69X, 69XX
Lloyd-Jones, Jean	Iowa City	52	Legislator	73rd — *Johnson*	68, 69(1st), 69X, 69XX
Lonergan, Joyce	Boone	47	Legislator	44th — *Boone*, Greene	66, 67, 67X, 68, 69(1st), 69X, 69XX
Mann, Karen	Scranton	33	Executive Secretary	55th — Audubon, Carroll, Crawford, *Greene*, Guthrie	69(1st), 69X, 69XX

MEMBERS OF THE HOUSE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION — Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Maulsby, Ruhl	Rockwell City	58	Farmer	47th — *Calhoun*, Carroll, Greene, Pocahontas, Sac	68, 69(1st), 69X, 69XX
McKean, Andrew (Andy)	Morley	32	College Instructor-Lawyer-Square Dance Caller	23rd — Cedar, Clinton, Jackson, *Jones*	68, 69(1st), 69X, 69XX
Menke, Lester D.	Calumet	63	Farmer-Insurance	5th — Buena Vista, Cherokee, Clay, *O'Brien*, Plymouth	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Miller, Kenneth D. ††	Independence	56	Owner Mobile Home Court	32nd — Black Hawk, *Buchanan*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Mullins, Sue	Corwith	45	Farmer	7th — Hancock, Humboldt, *Kossuth*, Palo Alto, Pocahontas	68, 69(1st), 69X, 69XX
Norland, Lowell E.	Kensett	50	Farmer	12th — Cerro Gordo, *Worth*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
O'Kane, James D.	Sioux City	30	Legislator	50th — *Woodbury*	68, 69(1st), 69X, 69XX
Oxley, Myron B. (Mike)	Marion	59	Farmer	30th — *Linn*	61, 67, 67X, 68, 69(1st), 69X, 69XX
Pavich, Emil S.	Council Bluffs	50	Cereal Company Employee	99th — *Pottawattamie*	66, 67, 67X, 68, 69(1st), 69X, 69XX
Pellett, Wendell C.	Atlantic	64	Farmer	95th — Adair, Adams, *Cass*, Guthrie, Union	64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Pelton, John	Clinton	35	Attorney-Community College Instructor	77th — *Clinton*	67, 67X, 68, 69(1st), 69X, 69XX
Petrick, George	Mount Vernon	64	Farmer-Implement Dealer	25th — Johnson, *Linn*	69(1st), 69X, 69XX

MEMBERS OF THE HOUSE—SIXTY-NINTH GENERAL ASSEMBLY—1982 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Poffenberger, Virginia	Perry	47	Lawyer	57th—Adair, *Dallas*, Guthrie	68, 69(1st), 69X, 69XX
Poncy, Charles N.	Ottumwa	59	School Employee	89th—Mahaska, Monroe, *Wapello*	62, 63, 65, 66, 67, 67X, 69(1st), 69X, 69XX
Pope, Lawrence	Des Moines	41	Law Professor	65th—*Polk*	68, 69(1st), 69X, 69XX
Rapp, Stephen J.	Waterloo	32	Attorney	34th—*Black Hawk*	65, 68, 69(1st), 69X, 69XX
Renaud, Dennis L.	Altoona	39	D.M. Fire Department-Business	63rd—*Polk*	69(1st), 69X, 69XX
Renken, Robert H.	Aplington	60	Farmer-Businessman	38th—Black Hawk, Butler, Franklin, *Grundy*, Marshall, Tama	68(2nd), 69(1st), 69X, 69XX
Ritsema, Douglas	Orange City	29	Attorney	2nd—Plymouth, *Sioux*	68, 69(1st), 69X, 69XX
Rosenberg, Ralph *	Ames	32	Attorney	42nd—Boone, Polk, *Story*	None
Running, Richard V.	Cedar Rapids	35	Quality Assurance Technologist	27th—Benton, *Linn*	69(1st), 69X, 69XX
Schnekloth, Hugo	Eldridge	58	Farmer	78th—Clinton, *Scott*	67, 67X, 68, 69(1st), 69X, 69XX
Schroeder, Laverne W.	McClelland	48	Farmer	98th—Mills, *Pottawattamie*	62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Shull, Douglas	Indianola	38	Accountant	92nd—Lucas, Marion, *Warren*	68, 69(1st), 69X, 69XX
Smalley, Douglas R.	Des Moines	35	Attorney	60th—*Polk*	67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE HOUSE — SIXTY-NINTH GENERAL ASSEMBLY — 1982 REGULAR SESSION — Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Smith, Joan (Jo)	Davenport	55	Businesswoman	79th — *Scott*	69(1st), 69X, 69XX
Spear, Clay	Burlington	65	Retired Postal Service	85th — *Des Moines*, Lee	66, 67, 67X, 68, 69(1st), 69X, 69XX
Stromer, Delwyn	Garner	51	Farmer	9th — Cerro Gordo, Franklin, *Hancock*, Wright	62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Stueland, Victor (Vic)	Grand Mound	61	Farmer	24th — Cedar, *Clinton*, Johnson, Scott	69(1st), 69X, 69XX
Sturgeon, Allan (Al)	Sioux City	25	Laborer	51st — *Woodbury*	69(1st), 69X, 69XX
Sullivan, William R.	Cantril	36	Heavy Equipment Operator	87th — Henry, Jefferson, Keokuk, Lee, *Van Buren*, Wapello, Washington	69(1st), 69X, 69XX
Swartz, Thomas E. (Tom)	Marshalltown	35	Real Estate Broker	39th — *Marshall*	69(1st), 69X, 69XX
Swearingen, George R.	Sigourney	58	Self-Employed, Home Improvement	88th — *Keokuk*, Washington	68, 69(1st), 69X, 69XX
Tofte, Semor C.	Decorah	70	Retired	16th — Fayette, Howard, *Winneshiek*	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX
Trucano, Jo Ann	Des Moines	38	Homemaker-Legislator	62nd — *Polk*	69(1st), 69X, 69XX
Tyrrell, Phillip E.	North English	49	Insurance	72nd — Benton, *Iowa*, Johnson, Keokuk, Poweshiek	68, 69(1st), 69X, 69XX
Van Maanen, Harold	Oskaloosa	52	Farmer	91st — Keokuk, Lucas, *Mahaska*, Marion, Monroe, Poweshiek	68, 69(1st), 69X, 69XX
Walter, Marcia K.	Council Bluffs	31	Secretary-Mother	100th — *Pottawattamie*	69(1st), 69X, 69XX
Welden, Richard W.	Iowa Falls	73	Retired Contractor	10th — Franklin, *Hardin*, Wright	62, 63, 64, 65, 66, 67, 67X, 68, 69(1st), 69X, 69XX

MEMBERS OF THE HOUSE—SIXTY-NINTH GENERAL ASSEMBLY—1982 REGULAR SESSION—Continued

Name	Residence	Age	Occupation	Representative District	Former Legislative Service
Welsh, Joseph J. (Joe)	Dubuque	26	Legislator	21st—*Dubuque*, Jackson	68, 69(1st), 69X, 69XX
Woods, Jack E.	Des Moines	45	Self-Employed	68th—*Polk*, Warren	65, 66, 67, 67X, 68, 69(1st), 69X, 69XX

District 22 *Elected in Special Election November 3, 1981 due to resignation of Nancy Shimanek September 10, 1981.

District 32 †Elected in Special Election March 23, 1982 due to death of Kenneth Miller February 23, 1982.
††Deceased February 23, 1982.

District 42 *Elected in Special Election November 3, 1981 due to resignation of Reid Crawford August 14, 1981.

District 81 *Elected in Special Election December 29, 1981 due to resignation of Gregory Cusack October 1, 1981.

District 84 *Elected in Special Election January 26, 1982 due to resignation of Larry Kirkenslager January 4, 1982.
**Resigned January 4, 1982.

CONDITION OF STATE TREASURY

Receipts, Disbursements and Balances in the Several Funds For the Fiscal Period Ending June 30, 1981

	Balance July 1, 1980	Total Receipts and Transfers	Total Available	Total Warrants Redeemed Treasurer's Checks Issued, and Transfers	Balance June 30, 1981
General Revenue	$ 109,043,399	$ 1,629,100,076	$ 1,738,143,475	$ 1,530,930,486	$ 106,495,145
Transfers				100,717,844	
Trust Funds	65,391,772	361,689,607	427,081,379	209,137,260	78,088,100
Transfers				139,856,019	
Special Funds					
(Comptroller's Warrants)	1,512,276,060	1,909,556,728	3,662,406,651	1,987,168,787	1,675,237,864
Transfers		240,573,863			
Special Funds					
(Treasurer's Checks)	363,544	211,144	574,688	571,138	3,550
TOTALS	$1,687,074,775	$4,141,131,418	$5,828,206,193	$3,968,381,534	$1,859,824,659

Balance July 1, 1980	$1,687,074,775
Receipts and Transfers	4,141,131,418
Total	$5,828,206,193
Disbursements and Transfers	3,968,381,534
Balance June 30, 1981	$1,859,824,659

OFFICE OF STATE COMPTROLLER
MAY 20, 1982

LAWS

OF THE

1982 Regular Session

OF THE

Sixty-ninth General Assembly

OF THE

STATE OF IOWA

PASSED AT DES MOINES, THE CAPITAL OF THE STATE, BEGUN ON THE ELEVENTH DAY OF JANUARY, AND ENDED ON THE TWENTY-FOURTH DAY OF APRIL, A.D. 1982 IN THE ONE HUNDRED THIRTY-SIXTH YEAR OF THE STATE

CHAPTER 1001

REVENUE BONDS FOR FAIRS AND EXPOSITIONS

H.F. 210

AN ACT authorizing a city or county to issue revenue bonds to finance the acquisition of land, buildings, or improvements to be used by or for fairs or expositions.

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

Section 1. Section 419.1, subsection 2, Code 1981, is amended to read as follows:

2. "Project" means all or any part of, or any interest in, (a) any land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under authority of this chapter, which ~~shall be~~ are suitable for the use of any voluntary nonprofit hospital, clinic or health care facility as defined in section 135C.1, subsection 4, or of any private college or university, or any state institution governed under chapter 262 whether for the establishment or maintenance of ~~such~~ the college or university, or of any industry or industries for the manufacturing, processing or assembling of any agricultural or manufactured products, even though ~~such~~ the processed products may require further treatment before delivery to the ultimate consumer, or of any commercial enterprise engaged in storing, warehousing or distributing products of agriculture, mining or industry including but not limited to barge facilities and river-front improvements useful and convenient for the handling and storage of goods and products, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a beginning businessperson for any purpose or of any fair or exposition held in the state, other than the Iowa state fair, which is a member of the association of Iowa fairs, or (b) pollution control facilities which ~~shall be~~ are suitable for use by any industry, commercial enterprise or utility. "Pollution control facilities" means any land, buildings, structures, equipment, pipes, pumps, dams, reservoirs, improvements, or other facilities useful for the purpose of reducing, preventing, or eliminating pollution of the water or air by reason of the operations of any industry, commercial enterprise or utility. "Improve", "improving" and "improvements" shall embrace any real property, personal property or mixed property of any and every kind that can be used or that will be useful in connection with a project, including~~, without limiting the generality of the foregoing,~~ but not limited to rights of way, roads, streets, sidings, trackage, foundations, tanks, structures, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, improvements, instrumentalities and other real, personal or mixed property of every kind, whether above or below ground level.

Approved February 18, 1982

CHAPTER 1002

ENFORCEMENT OF JUDGMENT LIENS AGAINST HOMESTEAD

S.F. 511

AN ACT relating to the enforcement of judgment liens against homestead property and subsequently acquired property, to take effect January 1 following enactment.

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

Section 1. Section 624.23, Code 1981, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Judgment liens described in this section shall not remain a lien upon real estate of the defendant, platted as a homestead pursuant to section 561.4, unless execution is levied within thirty days of the time the defendant or the defendant's agent has served written demand on the owner of the judgment. The demand shall state that the lien and all benefits derived therefrom as to the real estate platted as a homestead shall be forfeited unless the owner of the judgment levies execution against that real estate within thirty days from the date of service of the demand. Written demand shall be served in any manner authorized for service of original notice under the Iowa rules of civil procedure. A copy of the written demand and proof of service thereof shall be filed in the office of the county recorder of the county where the real estate platted as a homestead is located.

NEW UNNUMBERED PARAGRAPH. Judgment liens described in this section shall not attach to subsequently acquired real estate owned by the defendant if the personal liability of the defendant on the judgment has been discharged under the bankruptcy laws of the United States.

Sec. 2. This Act shall apply to all judgments that are of record on the effective date of this Act and all judgments entered on or after that date.

Sec. 3. This Act takes effect January 1 following its enactment.

Approved January 28, 1982

CHAPTER 1003

INSURANCE FEES AND REGULATION

H.F. 846

AN ACT relating to regulatory activities of the department of insurance and the fees payable by persons subject to such regulation.

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

Section 1. Section 87.11, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An employer seeking relief from the insurance requirements of this chapter shall pay to the department of insurance the following fees:

1. A fee of one hundred dollars, to be submitted annually along with an application for relief.

2. A fee of one hundred dollars for issuance of the certificate relieving the employer from the insurance requirements of this chapter.

Sec. 2. Section 502.302, subsection 2, Code 1981, is amended to read as follows:

2. Every applicant for initial or renewal registration as a broker-dealer shall pay a filing fee of ~~one hundred dollars in the case of a broker-dealer, and ten dollars in the case of an agent~~ two hundred dollars. ~~When an application is denied or withdrawn, the administrator shall retain the fee.~~ Every applicant for initial or renewal registration as an agent shall pay a filing fee of twenty dollars. A filing fee is not refundable.

Sec. 3. Section 507B.8, Code 1981, is amended to read as follows:

507B.8 JUDICIAL REVIEW OF CEASE AND DESIST ORDERS. Judicial review of the actions of the commissioner may be sought in accordance with the terms of the Iowa administrative procedure Act. To the extent that an order of the commissioner is affirmed in any judicial review proceeding, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commissioner.

After the period for judicial review of an order of the commissioner has expired and no petition for judicial review has been filed, the attorney general upon request of the commissioner of insurance shall proceed in the Iowa district court to enforce an order of the commissioner. The court shall enter its order commanding obedience to the terms of the commissioner's order.

No order of the commissioner under this chapter or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

Sec. 4. Section 510.19, Code 1981, is amended to read as follows:

510.19 CERTIFICATE OF AUTHORITY—FEE. Upon its complying with ~~the provisions of~~ sections 510.16 to 510.18, and ~~of section~~ 511.27, and the payment of ~~twenty five dollars~~ a fee of fifty dollars, the commissioner shall issue ~~to it~~ a certificate of authority to do business in this state~~, provided~~. However, the commissioner shall not issue a certificate of authority to do business in this state unless the same right is extended by the state in which ~~said~~ the association is organized to associations of the same class in this state.

Sec. 5. Section 511.24, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

511.24 FEES FROM DOMESTIC AND FOREIGN COMPANIES. When not otherwise provided, a foreign or domestic life insurance company doing business in this state shall pay to the commissioner of insurance the following fees:

1. For filing an application to do business, or an application to renew a certificate of authority, fifty dollars.

2. For issuing a certificate of authority to do business in this state, or for renewing a certificate, fifty dollars.

3. For filing amended articles of incorporation, fifty dollars.

4. For issuing an amended certificate of authority, twenty-five dollars.

5. For every copy of any paper filed, fifty cents per folio, and for certifying and affixing the official seal to any paper filed with the department, five dollars.

6. For valuing policies, twenty dollars for each million dollars of insurance or fraction thereof.

Sec. 6. Section 514.15, Code 1981, is amended to read as follows:

514.15 NONEXEMPT FROM TAXATION. Every corporation organized under the provisions of this chapter is hereby declared to be a charitable and benevolent institution but its property and funds, including subscribers' contracts, shall not be exempt from taxation. The tax on subscriber contracts shall be at the rate of fifteen cents for each subscriber contract issued in the preceding calendar year and shall be paid to the commissioner of insurance at the time of the filing of each corporation's annual statement. For purposes of this section, the term "subscriber contract" shall mean only those benefit contracts issued or delivered in Iowa by corporations subject to this chapter, including certificates issued under such contracts, and which provide coverage to residents of Iowa on a risk basis.

Sec. 7. Section 515.128, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

515.128 FEES. Fees shall be paid to the commissioner of insurance as follows:

1. For filing an application to do business, including all documents submitted in connection with the application, by a foreign or domestic company, or for filing an application for renewed authority, fifty dollars.

2. For issuing to a foreign or domestic company a certificate of authority to do business or a renewed certificate of authority, fifty dollars.

3. For filing amended articles of incorporation, fifty dollars.

4. For issuing an amended certificate of authority, twenty-five dollars.

5. For every copy of any paper filed, fifty cents per folio, and for certifying and affixing the official seal to any paper filed with the department, five dollars.

Sec. 8. Section 518.16, unnumbered paragraphs 3 and 4, Code 1981, are amended to read as follows:

~~The commissioner shall require of each~~ Each first-time applicant shall pay to the commissioner an application fee of ~~five~~ ten dollars, per line of insurance.

~~Each license shall expire on March 31 following the time of issue. A fee of fifty cents for each license shall be paid by the county mutual insurance association.~~ Every county mutual authorized to transact business in this state shall certify its agents to the commissioner who shall keep a list of the agents.

Sec. 9. Section 522.1, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~No~~ A person shall not, directly or indirectly, act within this state as agent, or otherwise, in receiving or procuring applications for insurance, or in doing or transacting any kind of insurance business for ~~any~~ a company or association unless exempt from the provisions of this chapter by ~~reason of~~ section 512.33, ~~and~~ except that the licensing of persons so acting for county mutuals ~~shall be~~ is subject only to ~~the provisions of~~ section 518.16, until ~~he~~ the person has procured a license from the commissioner of insurance ~~a license authorizing him to act for such company or association as agent~~.

Sec. 10. Section 522.2, Code 1981, is amended to read as follows:

522.2 TERM OF LICENSE. ~~Said~~ A license ~~shall terminate at the end of the insurance year for which such company or association is authorized to transact business~~ is valid for one year.

Sec. 11. Section 522.3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The commissioner shall require of each first-time applicant ~~such~~ reasonable proof of character and competency with respect to the type and kind of insurance the applicant proposes to sell ~~as will~~ in order to protect public interest~~,~~ before issuing ~~such~~ a license and may~~,~~ for good cause~~, after hearing held within sixty days from the date of application,~~ decline to issue ~~such~~ a license. ~~Any~~ A license, whether it be a first-time or renewal license, may be suspended or revoked by the commissioner for good cause~~,~~ after hearing. The commissioner may issue a temporary license for a period ~~of~~ not to exceed six months and for ~~such~~ a

temporary license may waive the requirements ~~established herein~~ of this section.

Sec. 12. Section 522.3, unnumbered paragraph 3, Code 1981, is amended to read as follows:

~~The commissioner shall require of each~~ A first-time applicant for a license shall pay to the commissioner an application fee of ~~five~~ ten dollars for each line of insurance.

Sec. 13. Section 522.4, Code 1981, is amended to read as follows:

522.4 FEE. The fee charged for ~~such~~ an agent's license shall be~~, for agents for insurance other than life, two dollars fifty cents, and for life insurance agents, five dollars. The commissioner shall remit the fees collected to the treasurer of state for deposit in the general fund of the state~~ ten dollars. Every insurer authorized to transact business in this state shall certify its agents to the commissioner who shall keep a list of the agents and charge an annual appointment fee of five dollars for each agent. The commissioner shall remit the fees collected to the treasurer of state for deposit in the general fund of the state.

Sec. 14. Section 522.5, Code 1981, is amended to read as follows:

522.5 VIOLATION. ~~Any~~ A person acting as agent or otherwise representing ~~any~~ an insurance company or association~~,~~ in violation of ~~the provisions of~~ section 522.1, ~~shall be~~ is guilty of a serious misdemeanor. In addition, a civil penalty of no more than ten thousand dollars may be assessed against a person who violates section 522.1. After the period for judicial review of an order of the commissioner has expired and no petition for judicial review has been filed, the attorney general upon request of the commissioner of insurance shall proceed in the Iowa district court to enforce an order of the commissioner. The court shall enter its order commanding obedience to the terms of the commissioner's order.

Sec. 15. Sections 511.5, 511.25 and 515.90, Code 1981, are repealed.

Approved February 8, 1982

CHAPTER 1004

FOREIGN SUPPORT ORDERS

S.F. 518

AN ACT relating to the registration of foreign support orders under Iowa's uniform support of dependents law.

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

Section 1. Chapter 252A, Code 1981, is amended by adding sections 2 through 5 of this Act.

Sec. 2. NEW SECTION. ADDITIONAL REMEDIES. If the duty of support is based on a support order entered in a foreign jurisdiction the petitioner has the additional remedies provided in sections 3 through 5 of this Act.

Sec. 3. NEW SECTION. REGISTRATION—ESTABLISHMENT OF REGISTRY. The petitioner may register the foreign support order in a court of this state in the manner and with the effect provided in sections 4 and 5 of this Act. The clerk of the court shall maintain a registry of foreign support orders in which foreign support orders shall be filed. The filing is in equity.

Sec. 4. NEW SECTION. REGISTRATION PROCEDURE—NOTICE.

1. A petitioner seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court three certified copies of the order reflecting all modifications, one copy of the reciprocal enforcement of support act of the state in which the order was made, and a statement verified and signed by the petitioner, showing the post office address of the petitioner, the last known place of residence and post office address of the respondent, the amount of support remaining unpaid, a description and the location of any property of the respondent available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, with payment of a filing fee of six dollars, shall file them in the registry of foreign support orders. The filing constitutes registration under this Act.

2. Promptly upon registration, the clerk of the court shall send by restricted certified mail to the respondent at the address given a notice of the registration with a copy of the registered support order and the post office address of the petitioner, or the petitioner may request that the respondent be personally served with the notice and the copy of the order in the same manner as original notices are personally served. The clerk shall also docket the case and notify the prosecuting attorney of the action.

Sec. 5. NEW SECTION. EFFECT OF REGISTRATION—ENFORCEMENT PROCEDURE.

1. Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. The order shall have the same effect and shall be subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.

2. The respondent shall have twenty days after receiving notice of the registration in which to petition the court to vacate the registration or for other relief. If the respondent does not so petition, the respondent is in default and the registered support order is confirmed.

3. At the hearing to enforce the registered support order the respondent may present only matters that would be available to the respondent as defenses in an action to enforce a foreign money judgment. However, the court in its discretion may consider the income and resources of the respondent, the respondent's ability to pay, and any material changes of circumstances since the granting of registered support order, and may modify the amount of the support in the same manner as other support orders are modified. If the respondent states to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the respondent has furnished security for payment of the support as ordered by the court. If the respondent shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the respondent furnishes the same security for payment of the support ordered that is required for a support order of this state.

Sec. 6. Section 252A.2, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Register" means to file a foreign support order in the registry of foreign support orders maintained as a filing in equity by the clerk of court.

NEW SUBSECTION. "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

Sec. 7. Section 252A.2, subsection 1, Code 1981, is amended to read as follows:

1. "State" ~~shall mean and include~~ means any state, territory, or possession of the United States ~~and~~, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a similar reciprocal law is in effect.

Approved February 8, 1982

CHAPTER 1005

BOARD OF MEDICAL EXAMINER'S AUTHORITY

H.F. 783

AN ACT relating to the licensing and examining boards, including the board of medical examiners, and providing a penalty.

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

Section 1. Section 147A.4, subsection 2, Code 1981, is amended to read as follows:

2. The board, with the advice and assistance of the council, shall promulgate rules required or authorized by this chapter pertaining to the examination and 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. 2. Section 147A.4, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board shall establish the fee for the examination of the advanced EMTs and paramedics to cover the administrative costs of the examination program.

Sec. 3. Section 147A.6, Code 1981, is amended to read as follows:

147A.6 ADVANCED EMT AND PARAMEDIC CERTIFICATES—RENEWAL.

1. The board ~~shall~~, upon application and receipt of the prescribed fee, shall issue a certificate attesting to the qualifications of ~~any~~ an individual who has met all of the requirements for a specific advanced EMT and paramedic category which are established by the rules promulgated under section 147A.4, subsection 2.

2. An advanced EMT or paramedic certificate shall be valid for the multi-year period determined by the board, unless sooner suspended or revoked. ~~Such a~~ The certificate shall be renewed upon application of the holder and receipt of the prescribed fee if ~~he or she~~ the holder has satisfactorily completed ~~ongoing educational~~ continuing medical education programs established or approved by the ~~department with the concurrence of the~~ board.

Sec. 4. Section 148.3, subsection 1, paragraph b, Code 1981, is amended by striking the paragraph.

Sec. 5. Section 148C.3, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

148C.3 APPLICATION AND CERTIFICATION.

1. The board shall formulate guidelines for the consideration of applications by licensed physicians to supervise physician's assistants.

2. A licensed physician may seek regular approval to supervise a physician's assistant by filing an application with the board. The application shall include:

a. The fee prescribed by the board.

b. The professional background and specialty of the physician.

c. The qualifications of the physician's assistant including:

(1) The academic qualifications of the physician's assistant or evidence of graduation from an approved program.

(2) The examination grades and certification by the national commission on certification of physician's assistants or any other standardized examination which the board of medical examiners approves.

(3) The related work experience of the physician's assistant.

d. A description by the physician of the physician's practice, and a description of how the physician's assistant is to be used.

3. A licensed physician may seek temporary approval to supervise a physician's assistant, who is a graduate of an approved program, by filing an application for temporary approval with the board. The temporary approval may be issued for one year and, at the discretion of the board may be renewed for one additional year. The application for temporary approval shall include:

a. The fee prescribed by the board.

b. The professional background and specialty of the physician.

c. Evidence that the physician's assistant is a graduate of an approved program.

d. The related work experience of the physician's assistant.

e. A description by the physician of the physician's practice and a description of how the physician's assistant is to be used.

4. A physician's assistant working under temporary approval shall function in the same facility as the supervising physician.

5. The board shall not approve an application by a physician to supervise more than two physician's assistants at one time.

The board may modify the proposed use of a physician's assistant as detailed in an application and then approve the application as modified. A physician's assistant shall perform only those services for which the physician's assistant is qualified by training, and shall not perform a service that is not permitted by the board. Approval of an application to supervise a physician's assistant may be revoked or suspended upon the grounds and pursuant to the procedure the board establishes by rule.

Sec. 6. Section 148C.6, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

148C.6 FEES AND RENEWALS. The board shall establish by rule the fees for the following:

1. An application by a physician to supervise a physician's assistant.

2. Approval of the application by a physician to supervise a physician's assistant.

3. A renewal of an approved application.

4. An application seeking program approval by the board.

An approval shall be valid for the multi-year period determined by the board, unless sooner suspended or revoked. The approval shall be renewed upon application of the physician and physician's assistant and receipt of the prescribed fee if the holder has satisfactorily completed continuing medical education programs established or approved by the board.

Sec. 7. Chapter 148C, Code 1981, is amended by adding the following new section:

NEW SECTION. PROHIBITIONS. A person not certified as required by this chapter who practices as a physician's assistant without having obtained the appropriate approval under

this chapter, is guilty of a serious misdemeanor.

Sec. 8. Section 258A.6, subsection 4, unnumbered paragraph 1, Code 1981, 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 622.10, 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~~ are privileged and confidential, and ~~shall~~ are not ~~be~~ subject to discovery, subpoena, or other means of legal compulsion for their release to ~~any~~ a person other than the licensee and the boards, their employees and agents involved in licensee discipline, ~~or be~~ and are not admissible in evidence in ~~any~~ a judicial or administrative proceeding other than the proceeding involving licensee discipline. However, investigative information in the possession of a licensing board or its employees or agents which relates to licensee discipline may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of a licensing board or its employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. However, a final written decision and finding of fact of a licensing board in a disciplinary proceeding, including a decision referred to in section 258A.3, subsection 4, ~~shall be~~ is a public record.

Sec. 9.* Section 147.81, Code 1981, is repealed.

Sec. 10.* An individual who has failed an initial examination before the effective date of this Act may take a second examination without further fee within fourteen months after the first examination.

Approved February 8, 1982

See also 81 Acts, ch 5,§10

CHAPTER 1006

GIFTED AND TALENTED CHILDREN'S PROGRAMS

S.F. 522

AN ACT to require that the department of public instruction and the area education agencies encourage schools to offer programs for gifted and talented children.

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

Section 1. Section 273.2, unnumbered paragraph 4, Code 1981, is amended to read as follows:

The area education agency board shall provide for special education services and media services for the local school districts in the area and shall encourage and assist school districts in the area to establish programs for gifted and talented children.

Sec. 2. Section 273.2, subsection 6, Code 1981, is amended by striking the subsection.

Sec. 3. Section 442.31, unnumbered paragraph 1, Code 1981, is amended to read as follows:

For the school year beginning July 1, 1981 and succeeding school years, boards of school districts, individually or jointly with the boards of other school districts, requesting to use additional allowable growth for gifted and talented children programs, may ~~provide for gifted and talented children programs and~~ annually submit program plans for gifted and talented children programs and budget costs, including requests for additional allowable growth for funding the programs, to the department of public instruction and to the applicable gifted and talented children advisory council, if an advisory council has been established, as provided in this chapter. A district shall not identify more than three percent of its budget enrollment for the budget year as gifted and talented if the district is requesting to use additional allowable growth to finance the program.

Sec. 4. Section 442.31, Code 1981, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. The parent or guardian of a pupil may request that a gifted and talented children program be established for pupils who qualify as gifted and talented children under section 442.33, including demonstrated achievement or potential ability in a single subject area.

Sec. 5. Section 442.31, unnumbered paragraph 3, Code 1981, is amended to read as follows:

The department of public instruction shall promulgate rules under chapter 17A relating to the administration of sections 442.31 to 442.35 and 442.40 to 442.42. The rules shall prescribe the format of program plans submitted under section 442.32 and shall require that programs fulfill specified objectives. The department shall encourage and assist school districts to provide programs for gifted and talented children whether or not additional allowable growth is requested under this chapter.

Sec. 6. Section 442.34, Code 1981, is amended to read as follows:

442.34 SUBMISSION OF PROGRAM PLANS. The board of directors of a school district requesting to use additional allowable growth for gifted and talented children programs shall submit applications for approval for ~~gifted and talented children~~ the programs to the department not later than November 1 preceding the fiscal year during which the program will be offered. The board shall also submit a copy of the program plans to the gifted and talented children advisory council, if an advisory council has been established. The department shall review the program plans and shall prior to January 15 either grant approval for the program or return the request for approval with comments of the department included. Any unapproved request for a program may be resubmitted with modifications to the department not later than February 1. Not later than February 15 the department shall notify the state comptroller and the school budget review committee of the names of the school districts for which gifted and talented children programs using additional allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved program.

Approved February 8, 1982

CHAPTER 1007

INMATE EMPLOYMENT PROGRAM

S.F. 277

AN ACT to authorize the director of the division of adult corrections of the department of social services to implement an inmate employment program.

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

Section 1. Section 216.1, unnumbered paragraph 1, Code 1981, is amended to read as follows:

It is the intent of this chapter that there be made available ~~within~~ to inmates of the state correctional institutions opportunities for employment ~~of inmates~~ in meaningful jobs with the following objectives:

Sec. 2. Section 216.2, subsection 2, Code 1981, is amended to read as follows:

2. "Iowa state industries" means prison industries that are established and maintained by the division of adult corrections, in consultation with the industries board, at or adjacent to the state's adult correctional institutions, except that an inmate employment program established by the state director under section 216.5, subsection 7 is not restricted to industries at or adjacent to the institutions.

Sec. 3. Section 216.5, Code 1981, is amended to read as follows:

216.5 DUTIES OF STATE DIRECTOR. The state director, with the advice of the industries board, shall:

1. Conduct market studies and consult with public bodies and officers who are listed in section 216.7, and with other potential purchasers, for the purpose of determining items or services needed and design features desired or required by potential purchasers of Iowa state industries products or services.

2. Receive, investigate and take appropriate action upon any complaints from potential purchasers of Iowa state industries products or services regarding lack of co-operation by Iowa state industries with public bodies and officers who are listed in section 216.7, and with other potential purchasers.

3. Establish, transfer and close industrial operations ~~at state correctional institutions,~~ as deemed advisable to maximize opportunities for gainful employment of inmates and to adjust to actual or potential market demand for particular products or services.

4. Establish and from time to time adjust, as necessary, levels of pay for inmates employed by Iowa state industries.

5. Co-ordinate Iowa state industries, and other opportunities for gainful employment available to inmates of adult correctional institutions, with vocational and technical training opportunities and apprenticeship programs, to the greatest extent feasible.

6. Promote, plan, and when deemed advisable, assist in the location of privately owned and operated industrial enterprises on the grounds of adult correctional institutions, pursuant to section 216.10.

7. Implement an inmate employment program to employ trustworthy inmates of state correctional institutions, under proper supervision, whether at employment centers located outside the state correctional institutions or in construction or maintenance work at public or charitable facilities, which shall meet the following conditions:

a. Inmates applying to participate in a program shall be approved by the work release

committee designated pursuant to section 247A.3 and shall reside at state correctional institutions.

b. The state director shall encourage the making of agreements with departments and agencies of the state or its political subdivisions to provide products or services under a program to the departments and agencies.

c. The state director shall promulgate rules concerning access to and distribution of products and services provided under a program.

d. The state director shall promulgate rules establishing criteria for the screening of inmates applying to participate in a program to assure that each participant:

(1) Develops the positive attitudes, good work habits, and marketable skills as those objectives are established in section 216.1, subsection 1.

(2) Exhibits appropriate conduct to enable the participant to be employed outside the state correctional institutions without constituting a threat to the security of the local community.

e. The state director may promulgate rules allowing inmates participating in a program to receive educational or vocational training outside the state correctional institutions and away from the employment centers or public or charitable facilities utilized under a program.

Sec. 4. Section 216.8, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. A department or agency of the state shall cooperate and enter into agreements, if possible, for the provision of products and services under an inmate employment program established by the state director under section 216.5, subsection 7.

Sec. 5. Section 216.9, subsection 2, paragraph a, Code 1981, is amended to read as follows:

a. Establishment, maintenance, transfer or closure of industrial operations, or vocational, technical and related training facilities and services for inmates~~, at adult correctional institutions,~~ as authorized by the state director in consultation with the industries board.

Approved February 8, 1982

CHAPTER 1008

CITY OF CRESCO LEGALIZING ACT

H.F. 857

AN ACT to legalize the proceedings of the city council and city engineer of the city of Cresco, Iowa, relating to the execution of a certain contract.

WHEREAS, the city engineer of the city of Cresco, Iowa, authorized the execution of a contract with the Maguire Iron Preserving Company, Inc., for the painting and repair of the water storage supply tank in the city; and

WHEREAS, the contract was approved and executed by the city engineer of Cresco for a total project cost of $36,079.51, and the contract was never approved by the city council of Cresco prior to its completion as required by law, but the city council of Cresco now wishes to confirm the contract, and

WHEREAS, some doubt has arisen as to the validity of the contract executed between the city of Cresco and Maguire Iron Preserving Company, Inc., for the repair and painting of the water storage supply tank in the city and the proceedings and contract should be legalized;

NOW THEREFORE,

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

Section 1. That all proceedings taken by the city engineer and the city council of the city of Cresco, Iowa, pertaining to the authorization and execution of a contract with Maguire Iron Preserving Company, Inc., for the repair and painting of the water storage supply tank in the city, designated project C-WS-180, are validated, legalized and confirmed, and the contract shall constitute a valid, legal and binding contract for the repair and painting of the water storage supply tank in the city.

Approved February 8, 1982

CHAPTER 1009

MOBILE HOME DEALER'S SURETY BOND

H.F. 372

AN ACT relating to the amount of the surety bond required of mobile home dealers.

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

Section 1. Section 322B.3, subsection 3, Code 1981, is amended to read as follows:

3. SURETY BOND. Before the issuance of a mobile home dealer's license, an applicant for a license shall file with the department a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state of Iowa, be in the amount of ~~fifty~~ twenty-five thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer with all of the statutes of this state regulating the business of the dealer and indemnifying any person dealing or transacting business with the dealer in connection with a mobile home from a loss or damage occasioned by the failure of the dealer to comply with ~~any of the provisions of~~ this chapter, including, but not limited to, the furnishing of a proper and valid document of title to the mobile home involved in the transaction.

Approved February 11, 1982

CHAPTER 1010

LICENSE FOR PRACTICE OF TAXIDERMY

S.F. 294

AN ACT relating to taxidermy and subjecting violators to a penalty.

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

Section 1. Chapter 109, Code 1981, is amended by adding the following new section:

NEW SECTION. TAXIDERMY.

1. "Taxidermist" as used in this section means a person engaged in the business of preserving or mounting game, fish, or fur-bearing animals as defined in this chapter.

2. A license is required for the practice of taxidermy. The commission, upon application and payment of the required license fee, shall furnish proper certificates to the applicant.

3. A licensed taxidermist may possess at any time game, fish, or fur-bearing animals which have been lawfully taken.

4. A taxidermist shall keep accurate records of its transactions showing the numbers and kinds of specimens received for preserving, the date of acquisition, and the name and address of the owner of the specimens.

5. A person shall not put or leave any game, fish, or fur-bearing animal in the custody of another person for the purpose of having taxidermy services performed unless each specimen has a tag attached which is signed by the possessor and states the address of the possessor, the total number and species of the specimens and the date the specimens were killed.

Approved February 11, 1982

CHAPTER 1011

STATE AID FOR LABORATORY SCHOOL

H.F. 444

AN ACT relating to the payment of state aid for pupils previously enrolled in a laboratory school.

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

Section 1. Section 265.6, Code 1981, is amended to read as follows:

265.6 STATE AID APPLICABLE. ~~The~~ If the state board of regents ~~which~~ has established a laboratory school, it shall receive state aid pursuant to chapters 281 and 442 for each pupil enrolled in the laboratory school in the same amount as the public school district in which the

pupil resides would receive aid for that pupil and shall transmit the amount received to the institution of higher education at which the laboratory school has been established. If the board of a school district terminates a contract with the state board of regents for attendance of pupils in a laboratory school, the school district shall inform the state comptroller of the number of these pupils who are enrolled in the district on the second Friday of the following September. The state comptroller shall pay to the school district, from funds appropriated in section 442.26, an amount equal to the amount of state aid paid for each pupil in that school district for that school year in payments made as provided in section 442.26. However, payments shall not be made for pupils for which an advance is received by the district under section 442.28.

Approved February 18, 1982

CHAPTER 1012

SCHOOL SECRETARY AND TREASURER COMBINED

H.F. 2112

AN ACT permitting school districts to combine the positions of secretary and treasurer.

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

Section 1. Section 279.3, Code 1981, 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 15 the board shall appoint a secretary who shall not be a teacher employed by the board but may be another employee of the board. ~~It~~ The board shall also appoint a treasurer who may be another employee of the board. However, the board may appoint one person to serve as the secretary and the treasurer.

PARAGRAPH DIVIDED. 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 277.28 and filing a bond as required by section 291.2 and shall hold office until their successors are appointed and qualified.

Sec. 2. Section 291.2, Code 1981, is amended to read as follows:

291.2* BONDS OF SECRETARY AND TREASURER. The secretary and treasurer shall each give bond to the school corporation in ~~such~~ the penalty ~~as~~ the board ~~may require~~ requires, and with sureties to be approved by ~~it~~ the board, which bond shall be filed with the president, conditioned for the faithful performance of the official duties of office, but in no case less than five hundred dollars. If one person serves as the secretary and the treasurer, pursuant to section 279.3, only one bond is necessary for that person. The secretary and treasurer may give bond under a single blanket bond covering other employees of the district.

Approved February 18, 1982

*See also ch 1086 herein

CHAPTER 1013

FALSE USE OF NONRESIDENT LICENSES ISSUED BY CONSERVATION COMMISSION

S.F. 322

AN ACT prohibiting certain uses of licenses issued by the state conservation commission and providing a penalty.

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

Section 1. Chapter 110, Code 1981, is amended by adding the following new section:

NEW SECTION. A nonresident shall not obtain a resident license by falsely claiming residency in the state. The use of a license by a person other than the person to whom the license is issued is unlawful and shall nullify the license. A resident or nonresident who violates this section is guilty of a simple misdemeanor.

Approved February 18, 1982

CHAPTER 1014

CITY OF CHARITON LEGALIZING ACT

H.F. 856

AN ACT to legalize the proceedings of the city council of Chariton relating to the construction of certain buildings.

WHEREAS, the City of Chariton, after advertising for bids by giving proper notice of the date, place and time of the bid openings, received bids for the construction of a concession stand and related improvements in Eikenberry Park, said park owned by the City of Chariton; and

WHEREAS, the low bid received was $35,603.00, an amount felt to be excessive by the City Council and which was therefore rejected; and

WHEREAS, the City Council advertised again as required by law and at said second bid opening there was received a low bid of $31,433.00, which was considered excessive by the Council and also rejected; and

WHEREAS, the City Council directed that City employees be used to construct said concession stand and related improvements, that a Project Director be hired on a part-time basis, and that all necessary materials be purchased from local merchants, and

WHEREAS, the City was able to complete the construction of said concession stand and related improvements for $17,412.13; but some doubt has arisen as to the validity of the expenditure even though it was beneficial to the City of Chariton, NOW THEREFORE,

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

Section 1. That all proceedings taken by the City of Chariton, Lucas County, Iowa, pertaining to the construction of said concession stand and related improvements in Eikenberry Park, a park owned and operated by the City of Chariton, be and the same are hereby validated, legalized and confirmed and shall constitute valid, legal and binding action for the construction thereof, the same as if no doubt had arisen as to the validity of the procedure taken.

Approved February 18, 1982

CHAPTER 1015

FISH AND GAME INCOME TAX REFUND CHECKOFF

H.F. 396

AN ACT relating to an income tax checkoff for the state fish and game protection fund.

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

Section 1. Chapter 107, Code 1981, is amended by adding the following new section:

NEW SECTION. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate any amount of a refund due on the return to be paid to the state fish and game protection fund. The amount designated shall not exceed the amount of refund due on the return.

The revenues received 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 matched federal funds may be used for acquisition of land, leasing of land or obtaining of easements from willing sellers for use of land as wildlife habitats for game and nongame species. Not less than fifty percent of the funds derived from the checkoff shall be used for the purposes of preserving, protecting, perpetuating and enhancing nongame wildlife in this state. Nongame wildlife includes those animal species which are endangered, threatened or not commonly pursued or killed either for sport or profit. Notwithstanding the exemption in section 427.1, the land acquired with the revenues and matched federal funds is subject to the full consolidated levy of property taxes which shall be paid from those revenues. In addition the revenues may be used for the development and enhancement of wildlife lands and habitat areas and for research and management necessary to qualify for federal funds.

The director of revenue shall revise the income tax form to allow the designation of contributions to the state fish and game protection fund on the face of the tax return and above the signature lines.

The department of revenue on or before January 31 of the year following the preceding calendar year shall certify the total amount designated on the tax return forms due in the preceding calendar year and shall report the amount to the state treasurer. The state treasurer shall credit the amount to the state fish and game protection fund.

The general assembly shall appropriate annually from the state fish and game protection fund the amount credited to the fund from the checkoff to the division of fish and game of the commission for the purposes pursuant to section 1 of this Act.

The action taken by a person for the checkoff is irrevocable.

The department shall adopt rules to implement this Act. However, before a checkoff pursuant to section 1 of this Act shall be permitted, all liabilities on the books of the department of revenue and accounts identified as owing under section 421.17, subsection 21, paragraph b, shall be satisfied.

Sec. 2. This Act takes effect January 1 following enactment for tax years beginning on or after that date.

Approved March 2, 1982

CHAPTER 1016

EXEMPTION OF CHILD DAY CARE PROVIDERS FROM FOSTER CARE LICENSING

H.F. 788

AN ACT excluding child day care providers and babysitters from the child foster care licensing requirements, requiring family and group day care providers who are foster care licensees to register under chapter 237A, and providing that foster children are considered children of the family or group day care provider.

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

Section 1. Section 237.1, subsection 3, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. Child day care furnished by a child care center, group day care home, or family day care home as defined in section 237A.1.

Sec. 2. Section 237.4, subsection 6, Code 1981, is amended to read as follows:

6. An individual providing child care as a babysitter ~~for one or more children, up to a maximum of six children simultaneously, not overnight,~~ at the request of a parent, guardian or relative having lawful custody of the child ~~provided that foster children shall not be counted in determining the maximum number of children allowed~~.

Sec. 3. Section 237A.3, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. A person who operates or establishes a family day care home or a group day care home and who is a child foster care licensee under chapter 237 shall register with the department under this chapter. For purposes of registration and determination of the maximum number of children who can be provided child day care by the family day care home or group day care home, the children receiving child foster care shall be considered the children of the person operating the family day care home or group day care home.

Approved March 2, 1982

CHAPTER 1017

FAMILY FARM DEVELOPMENT BONDS OR NOTES

H.F. 2034

AN ACT relating to state bank investment in bonds and notes issued by the Iowa family farm development authority.

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

Section 1. Section 524.901, subsection 2, paragraph a, Code 1981, is amended to read as follows:

a. The total amount of ~~such~~ the bonds or securities of any one issuer or obligor, other than revenue or improvement bonds issued by a municipality or the Iowa family farm development authority and subjected to separate investment limits under paragraphs "b", "c", or "d" of this subsection or section 2 of this Act, shall not exceed twenty percent of the capital and surplus of the state bank.

Sec. 2. Section 524.901, subsection 2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 173, section 10, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. The total amount of bonds or notes issued by the Iowa family farm development authority pursuant to chapter 175 which have been issued on behalf of any one beginning farmer, as defined in section 175.2, subsection 5, and the proceeds of which have been loaned to that beginning farmer shall not exceed twenty percent of the capital and surplus of the state bank.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Monona Billboard, a newspaper published in Monona, Iowa, and in the Audubon News-Advocate, a newspaper published in Audubon, Iowa.

Approved March 2, 1982

I hereby certify that the foregoing Act, House File 2034 was published in the Monona Billboard, Monona, Iowa on March 11, 1982, and in the Audubon News-Advocate, Audubon, Iowa on March 10, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1018

MUNICIPAL GOVERNMENT TORT LIABILITY

S.F. 474

AN ACT relating to the tort liability of governmental subdivisions.

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

Section 1. Chapter 613A, Code 1981, is amended by adding the following new section:

NEW SECTION. OFFICERS AND EMPLOYEES. All officers and employees of municipalities are not personally liable for any claim which is exempted under section 613A.4, except a claim for punitive damages, and actions permitted under section 85.20. An officer or employee of a municipality is not liable for punitive damages as a result of acts in the performance of a law enforcement or emergency duty, unless actual malice or recklessness is proven.

Sec. 2. Chapter 613A, Code 1981, is amended by adding the following new section:

NEW SECTION. DEFAULT JUDGMENTS. A default judgment shall not be taken against an employee, officer, or agent of a municipality unless the municipality is a party to the action and the time for special appearance, motion or answer by the municipality under rule 53 of the rules of civil procedure has expired.

Sec. 3. Section 613A.2, unnumbered paragraphs 1 and 2, Code 1981, are amended to read as follows:

Except as otherwise provided in this chapter, every municipality is subject to liability for its torts and those of its officers~~,~~ and employees, ~~and agents~~ acting within the scope of their employment or duties, whether arising out of a governmental or proprietary function.

~~A tort shall be deemed to be within the scope of employment or duties if the act or omission reasonably relates to the business or affairs of the municipality and the officer, employee, or agent acted in good faith and in a manner a reasonable person would have believed to be in and not opposed to the best interests of the municipality.~~

Sec. 4. Section 613A.4, subsection 3, Code 1981, is amended to read as follows:

3. Any claim based upon an act or omission of an officer or employee of the municipality, exercising due care, in the execution of a statute, ordinance, ~~or officially adopted resolution, rule,~~ or regulation ~~of a governing body~~ whether the statute, ordinance or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the municipality or an officer or employee of the municipality.

Sec. 5. Section 613A.4, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Any claim for punitive damages.

NEW SUBSECTION. 6. Any claim for damages caused by a municipality's failure to discover a latent defect in the course of an inspection.

Sec. 6. Section 613A.8, Code 1981, is amended to read as follows:

613A.8 OFFICERS AND EMPLOYEES DEFENDED. The governing body shall defend any of its officers~~,~~ and employees ~~and agents~~, whether elected or appointed and~~,~~ ~~except in cases of malfeasance in office, willful and unauthorized injury to persons or property, or willful or wanton neglect of duty,~~ shall save harmless and indemnify such officers~~,~~ and employees ~~and agents~~ against any tort claim or demand, whether groundless or otherwise, arising out of an

alleged act or omission occurring within the scope of their employment or duties. However, the duty to save harmless and indemnify shall not apply to awards for punitive damages. The duty to save harmless and indemnify shall not apply and the municipality shall be entitled to restitution by an officer or employee if, in an action commenced by the municipality against the officer or employee, it is determined that the conduct of the officer or employee upon which the tort claim or demand was based constituted a willful and wanton act or omission. Any independent or autonomous board or commission of a municipality having authority to disburse funds for a particular municipal function without approval of the governing body shall similarly defend, save harmless and indemnify its officers, and employees ~~and agents~~ against such tort claims or demands.

The ~~duty~~ duties to defend, and to save harmless, and indemnify shall apply whether or not the municipality is a party to the action and shall include but not be limited to cases arising under title 42 United States Code section 1983.

In the event the officer or employee fails to cooperate in the defense against the claim or demand, the municipality shall have a right of indemnification against that officer or employee.

Approved March 2, 1982

CHAPTER 1019

SALES AND USE TAX ON TRANSACTIONS INVOLVING TRADED PROPERTY

S.F. 574

AN ACT relating to the calculation of the sales, services, and use tax on transactions involving the trade-in of tangible personal property.

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

Section 1. Section 422.42, subsection 6, paragraph b, Code 1981, is amended by striking the paragraph and inserting in lieu thereof the following:

b. That in transactions in which tangible personal property is traded toward the purchase price of other tangible personal property the gross receipts are only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:

(1) The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail and will be subject to the tax under section 422.43 when sold.

Sec. 2. Section 423.1, subsection 3, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

3. "Purchase price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise; provided:

a. That cash discounts taken on sales are not included.

b. That in transactions, except those subject to paragraph c, in which tangible personal property is traded toward the purchase price of other tangible personal property the purchase

price is only that portion of the purchase price which is payable in money to the retailer if the following conditions are met:

(1) The tangible personal property traded to the retailer is the type of property normally sold in the regular course of the retailer's business.

(2) The tangible personal property traded to the retailer is intended by the retailer to be ultimately sold at retail and will be subject to the tax under section 422.43 or this chapter when sold.

c. That in transactions between persons, neither of which is a retailer of vehicles subject to registration, in which a vehicle subject to registration is traded toward the purchase price of another vehicle subject to registration, the purchase price is only that portion of the purchase price represented by the difference between the total purchase price of the vehicle subject to registration acquired and the amount of the vehicle subject to registration traded.

Approved March 2, 1982

CHAPTER 1020

NOTARY PUBLIC ACTION BEFORE 1970 LEGALIZED

S.F. 2126

AN ACT to change the date of legalization to 1970 for all defects and irregularities in those acts and instruments included in section 586.1.

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

Section 1. Section 586.1, subsections 1, 2, 4, 6, 7, 8, and 9, Code 1981, are amended to read as follows:

1. Official acts performed before ~~1960~~ 1970 by notaries public during the time that they held over in office without qualifying after the expiration of the preceding term, if such notaries public have since qualified.

2. Acknowledgments taken before ~~1960~~ 1970 by notaries public outside their jurisdiction.

4. Acknowledgments of deeds, mortgages, school fund mortgages and contracts taken and certified before ~~1960~~ 1970 by any county auditor, deputy county auditor, or deputy clerk of the district court although such officer was not authorized to take such acknowledgments at the time they were taken.

6. Acknowledgments taken, certified, and recorded before ~~1960~~ 1970 in the proper counties, and which are defective only in the form of the certificate of the officer taking the acknowledgment or because made before an official not qualified to take such acknowledgment but who was qualified to take acknowledgments generally.

7. Acknowledgments taken outside the United States before ~~1960~~ 1970 by officers authorized by section 10092, Codes 1924 to 1939 and section 558.28, Code 1946 to and including the Code of 1966, to take such acknowledgments, whether or not a certificate of authenticity as provided by section 10093, Codes of 1924 to 1939 and section 558.29, Code 1946 to and including the Code of 1966, is attached to such instrument; and the certificate of acknowledgment of

such officer is hereby made conclusive evidence that such officer was duly qualified to make such certificate of acknowledgment.

8. Any instrument affecting real estate executed before ~~1960~~ 1970 by an attorney in fact for the grantor where a duly executed and sufficient power of attorney was on file in the county where the land was situated, although the instrument was executed and acknowledged in the form of "A, attorney in fact for B", instead of "B, by A, his attorney in fact"; or if such instrument is duly recorded and there is no record in the county where the land is situated of a power of attorney authorizing the attorney in fact to so act.

9. Any written instrument and the recording thereof, recorded prior to ~~1960~~ 1970 in the office of the recorder of the proper county, although there is attached to the instrument a defective certificate of acknowledgment.

Approved March 2, 1982

CHAPTER 1021

CRIMINAL PROCEDURE RULES AMENDED

S.F. 494

AN ACT relating to criminal procedure, by amending the rules of criminal procedure relating to change of judge, change of venue and place of trial.

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

Section 1. Rule of criminal procedure 10, subsection 9, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

9. MOTION FOR CHANGE OF JUDGE.

a. FORM OF MOTION. A motion for a change of judge shall be verified on information and belief by the movant.

b. CHANGE OF JUDGE. If the court is satisfied from a motion for a change of judge and the evidence introduced in support of the motion that prejudice exists on the part of the judge, the chief judge shall name a new presiding judge. The location of the trial need not be changed.

Sec. 2. Rule of criminal procedure 10, Code 1981, is amended by adding the following new subsection as subsection 10:

NEW SUBSECTION. 10. MOTION FOR CHANGE OF VENUE.

a. FORM OF MOTION. A motion for a change of venue shall be verified on information and belief by the movant.

b. CHANGE OF VENUE ORDERED. If the court is satisfied from a motion for a change of venue and the evidence introduced in support of the motion that such degree of prejudice exists in the county in which the trial is to be had that there is a substantial likelihood a fair and impartial trial cannot be preserved with a jury selected from that county, the court either shall order that the action be transferred to another county in which the offensive condition does not exist, as provided in paragraph c, or shall order that the trial jury be impaneled in and

transferred from a county in which the offensive condition does not exist, as provided in paragraph d.

c. TRANSFER OF ACTION. When a transfer of the action to another county is ordered under paragraph b the clerk shall transmit to the clerk of the court of the county to which the proceeding is transferred all papers in the proceeding or duplicates of them and any bail taken, and the prosecution shall continue in that county. If the defendant is in custody, the court may order the defendant to be delivered to the sheriff of the receiving county, and upon receipt of a certified copy of the order, the sheriff shall receive and detain the defendant. All expenses attendant upon the change of venue and trial, including the costs of keeping the defendant, which shall be allowed by the court trying the case, may be recovered by the receiving county from the transferring county. The prosecuting attorney in the transferring county is responsible for prosecution in the receiving county.

d. TRANSFER OF JURY.

(1) This paragraph applies if the court orders under paragraph b that a jury be transferred from another county.

(2) Upon issuance of the order under paragraph b, the clerk of court shall immediately notify the chief judge of the judicial district that includes the county from which the trial jury is to be obtained. The chief judge shall schedule a day for the commencement of proceedings under subparagraph (5) and shall cause notice of the proceedings to be delivered to the trial judge, to the attorneys for the prosecution and the defense, and to the clerks of court of the two counties that are affected by the proceedings. The clerk of the trial court shall deliver to the trial judge all documents that must be present in court at the time trial is commenced under subparagraph (5).

(3) The trial judge shall issue orders as necessary to assure the presence of the defendant during proceedings under subparagraph (5). If the defendant is in custody, the sheriff of the trial county is responsible for transporting the defendant to and from the place of jury selection. The sheriff of the county from which the jury is to be obtained shall receive and maintain temporary custody of the defendant as ordered by the trial court.

(4) The trial court shall retain jurisdiction of the action, and all proceedings and records shall be maintained in the ordinary manner, except that the trial record shall contain pertinent information respecting the change of location for the proceedings under subparagraph (5) and the reason for the change.

(5) The commencement of the trial and the jury selection process shall take place in the county in which the jury is to be impaneled. The clerk of court of that county shall perform all of the trial duties of the clerk of court during proceedings that take place in that county. Once the jury has been sworn, the court shall adjourn for the period of time necessary to permit the transportation of the jury to the trial county. Upon reconvening, the trial shall continue in the usual manner.

(6) The jurors shall be kept together and in the custody of the proper officers while traveling to the place of trial and during the trial. The court may issue orders respecting segregation of the jury while traveling and during the trial as necessary to preserve the integrity of the trial.

(7) The trial county shall provide transportation for the jurors to and from the place of trial, and shall provide the proper officers to take custody of the jurors after they are sworn and until they are discharged, as ordered by the trial court.

(8) The trial county shall pay all expenses incurred in connection with the jury, including but not necessarily limited to juror fees, the costs of transporting, housing, and feeding the jury, and the costs and expenses of officers assigned to take custody of the jury. The trial county shall pay the costs of transporting the defendant to and from the place of jury selection, if any. The county from which the jury is obtained may recover from the trial county any costs allowed by the trial court for maintaining custody of the defendant at the time of trial commencement and jury selection.

(9) Members of the trial jury and alternates shall each be paid the usual juror fee for service under this paragraph, but the fee shall be due for each calendar day they are under the direction of the court or its officers, commencing with the day they are sworn and ending with the day they are returned to the county of their residence after being discharged.

Sec. 3. Rule of criminal procedure 10, subsection 10, Code 1981, is amended by renumbering that subsection as subsection 11.

Sec. 4. Rule of criminal procedure 17, subsection 17, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a jury is being selected for trial of an action outside of the county pursuant to rule 10, subsection 10, paragraph d, the court shall impanel two alternate jurors, who shall be sworn with the regular jury to try the case, and who shall sit at the trial. These alternates shall be used or discharged as provided in unnumbered paragraph 1. The court may require the impaneling of more than two alternates.

Sec. 5. Rule of criminal procedure 27, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. JURY IMPANELED OUTSIDE OF COUNTY. For purposes of this section, when a jury is to be impaneled from outside the county under rule 10, subsection 10, paragraph d, a defendant is deemed to have been brought to trial as of the day when the trial commences in the county in which jury selection takes place.

NEW SUBSECTION. CHANGE OF VENUE AFTER JURY SELECTION COMMENCED. Whenever a change of venue is granted pursuant to section 803.2, the defendant may be brought to trial within thirty days of the grant of the change of venue, notwithstanding subsection 2, paragraph b, of this rule.

Sec. 6. Rule of criminal procedure 46, Code 1981, is amended to read as follows:

Rule 46. CHANGE OF VENUE. A change of ~~place of trial~~ venue may be applied for and accomplished in ~~the manner~~ either of the manners prescribed in R.Cr.P. 10~~, and the papers transmitted in similar manner as described therein to the judicial officer or clerk of the court to which change is allowed~~.

Sec. 7. Section 803.2, Code 1981, is amended to read as follows:

803.2 PLACE OF TRIAL—GENERAL.

1. ~~Criminal actions~~ A criminal action shall be tried in the county in which the crime is committed, except as otherwise provided by law.

2. The court, may on its own motion or on the motion of any of the parties to the proceeding reconsider and grant a pretrial motion for change of venue whenever it appears during jury selection that sufficient grounds would exist for granting the motion under the provisions of R.Cr.P. 10.

3. All objections to ~~place of trial~~ venue are waived by a defendant unless the defendant objects thereto ~~prior to trial~~ and secures a ruling by the trial court on a pretrial motion for change of venue. However, if venue is changed pursuant to subsection 2, all objections to venue in the county to which the action is transferred are waived by a defendant unless the defendant objects by a motion for change of venue filed within five days after entry of the order transferring the action and secures a ruling by the trial court on the motion before a jury has been impaneled and sworn.

Sec. 8. Section 814.5, subsection 2, paragraph c, Code 1981, is amended to read as follows:

c. An order granting or denying a motion for a change of venue.

Sec. 9. Section 814.6, subsection 2, paragraph b, Code 1981, is amended to read as follows:

b. An order granting or denying a motion for a change of venue.

Sec. 10. Section 331.756, subsection 2, Code 1981 Supplement, is amended to read as follows:

2. Appear for the state and the county in all cases and proceedings in the courts of the county to which the state or the county is a party, except ~~cases brought on~~ actions or proceedings resulting from a change of venue from another county, and appear in the appellate courts in all cases in which the county is a party, and appear in all ~~cases~~ actions or proceedings which are transferred on a change of venue to another county or which require the impaneling of a jury from another county and in which the county or the state is a party.

Sec. 11. Except as additionally provided in section 7, subsection 2 of this Act, the purpose of this Act is to create an alternative to the transfer of criminal trials in those cases where a change of venue is found to be necessary, by providing a mechanism for securing a jury from outside of the trial county. This Act is not intended to limit in any manner the right of a defendant to a fair trial. It is intended that the courts shall exercise their rule-making powers to assure that fair trials are preserved under the procedures contained in this Act.

Sec. 12.

1. This Act takes effect July 1, 1983.

2. The supreme court may, prior to the effective date of this Act as specified in subsection 1, submit additional amendments to any of the rules of criminal procedure amended by this Act. Proposals shall be submitted in the manner prescribed in section 684.19 for the amendment of rules of civil procedure. Any amendments that are proposed by the supreme court during the 1983 legislative session and adopted in the manner prescribed in section 684.19 take effect on July 1, 1983, and supersede conflicting amendments contained in this Act.

3. Except as stated in subsection 4, the procedures established by this Act, as modified by any superseding amendments adopted under subsection 2, apply to the following:

a. Any action that is commenced on or after the effective date of this Act as specified in subsection 1.

b. Any retrial of an action that begins on or after the effective date of this Act as specified in subsection 1, irrespective of either the date or the nature of the judicial decision that led to the new trial.

4. Section 7, subsection 2 of this Act contains a restatement of existing law as interpreted by the Iowa supreme court in State v. Allen, and to that extent shall be deemed a continuation of prior law.

Approved March 2, 1982

CHAPTER 1022

REMITTING STATE TAXES

S.F. 2080

AN ACT relating to the time for the depositing or remitting of, or filing a return on state income tax withheld, sales and services tax collected, or use tax collected or owed, providing penalties, and making certain provisions effective April 1, 1982 after publication and other provisions effective January 1, 1983.

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

Section 1. Section 422.16, subsection 2, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

2. A withholding agent required to deduct and withhold tax under subsections 1 and 12, except those required to deposit on a semi-monthly basis, shall deposit for each calendar quarterly period, on or before the last day of the month following the close of the quarterly period, on a quarterly deposit form as prescribed by the director and shall pay to the department, in the form of remittances made payable to "Treasurer, State of Iowa", the tax required to be withheld, or the tax actually withheld, whichever is greater, under subsections 1 and 12. However, a withholding agent who withholds more than fifty dollars in any one month, except those required to deposit on a semi-monthly basis, shall deposit with the department the amount withheld, with a monthly deposit form as prescribed by the director. The monthly deposit form is due on or before the fifteenth day of the month following the month of withholding, except that a deposit is not required for the amount withheld in the third month of the quarter but the total amount of withholding for the quarter shall be computed and the amount by which the deposits for that quarter fail to equal the total quarterly liability is due with the filing of the quarterly deposit form. The quarterly deposit form is due within the month following the end of the quarter. A withholding agent who withholds more than eight thousand dollars in a semi-monthly period shall deposit with the department the amount withheld, with a semi-monthly deposit form as prescribed by the director. The first semi-

monthly deposit form for the period from the first of the month through the fifteenth of the month is due on the twenty-fifth day of the month in which the withholding occurs. The second semi-monthly deposit form for the period from the sixteenth of the month through the end of the month is due on the tenth day of the month following the month in which the withholding occurs.

Every withholding agent on or before the end of the second month following the close of the calendar year in which the withholding occurs shall make an annual reporting of taxes withheld and other information prescribed by the director and send to the department copies of wage and tax statements with the return.

If the director has reason to believe that the collection of the tax provided for in subsections 1 and 12 is in jeopardy, the director may require the employer or withholding agent to make the report and pay the tax at any time, in accordance with section 422.30. The director may authorize incorporated banks, trust companies, or other depositories authorized by law which are depositories or financial agents of the United States or of this state, to receive any tax imposed under this chapter, in the manner, at the times, and under the conditions the director prescribes. The director shall also prescribe the manner, times, and conditions under which the receipt of the tax by those depositories is to be treated as payment of the tax to the department.

Sec. 2. Section 422.16, subsection 10, paragraph b, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 5, is amended to read as follows:

b. Any employer or withholding agent required under this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form for the withholding of tax with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, is subject to a penalty determined by adding to the amount required to be shown as tax due on the semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form 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 the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit the tax due with the filing of the semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form on or before the due date, or fails to pay any amount of any tax required to be shown on the semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form and failure to pay the tax due or required on the semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under ~~section 1 of this Act~~ Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1, for each month counting each fraction of a month as an entire month, computed from the date the semi-monthly, monthly ~~deposit form,~~ or quarterly ~~return~~ deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

Sec. 3. Section 422.51, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Notwithstanding the time for filing a return under subsection 1, a

retailer who must deposit the tax collected semi-monthly under section 422.52, subsection 1 in section 4 of this Act shall on or before the fifteenth day of the month following the end of the quarter make, file, and sign a return for the calendar quarter.

Sec. 4. Section 422.52, subsection 1, Code 1981, is amended to read as follows:

1. The tax levied ~~hereunder shall be~~ under this division is due and payable in quarterly installments on or before the last day of the month ~~next succeeding~~ following each quarterly period ~~provided, however, every~~ except as otherwise provided in this subsection. Every retailer who collects more than four thousand dollars in retail sales tax in a semi-monthly period shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected or an amount equal to not less than one-sixth of the tax collected and paid to the department during the preceding quarter, with a deposit form for the semi-monthly period as prescribed by the director. The first semi-monthly deposit form is for the period from the first of the month through the fifteenth of the month and is due on or before the twenty-fifth day of the month. The second semi-monthly deposit form is for the period from the sixteenth through the end of the month and is due on or before the tenth day of the month following the month of collection. A deposit is not required for the last semi-monthly period of the calendar quarter. The total quarterly amount, less the amount deposited for the five previous semi-monthly periods, is due with the quarterly report on the fifteenth day of the month following the month of collection. A retailer who collects more than five hundred dollars in retail sales taxes in ~~any~~ one month and not more than four thousand dollars in retail sales taxes in a semi-monthly period shall deposit with the department or in a depository ~~bank~~ authorized by law and designated by the director, ~~said sum~~ the amount collected or an amount equal to not less than one-third of the tax collected and paid to the department during the preceding quarter, ~~made out on~~ with a deposit form for the month ~~in such form and manner~~ as ~~may be~~ prescribed by the director, ~~said~~. The deposit form ~~being~~ is due on or before the twentieth day of the month ~~next succeeding~~ following the month of collection, except ~~no deposit will be~~ a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, ~~will be~~ is due with the quarterly report on the last day of the month ~~next succeeding~~ following the month of collection. ~~Provided further, however, every~~ Every retailer who collects more than fifty dollars and not more than five hundred dollars in retail sales tax in ~~any~~ one month shall deposit with the department or in a depository ~~bank~~ authorized by law and designated by the director, ~~said sum~~ the amount collected, or an amount equal to not less than ~~thirty percent~~ one-third of the tax collected and paid to the department during the last preceding quarter, ~~made out on~~ with a deposit form for the month ~~in such form and manner~~ as ~~may be~~ prescribed by the director, ~~said~~. The deposit form ~~being~~ is due on or before the twentieth day of the month ~~next succeeding~~ following the month of collection, except ~~no deposit will be~~ a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, ~~will be~~ is due with the quarterly report on the last day of the month ~~next succeeding~~ following the month of collection. ~~Said~~ The monthly remittance procedure ~~shall be~~ is optional for any sales tax permit holder whose average monthly collection of tax amounts to more than twenty-five dollars and less than fifty dollars. If the exact amounts of the taxes due or an amount equal to not less than ~~thirty percent~~ one-third or one-sixth, as applicable, of the tax collected and paid to the department during the last preceding quarter on the ~~monthly~~ deposit form are not ascertainable by the retailer, or would work undue hardship in the computation of the taxes due by the retailer, the director may provide by rules alternative procedures for estimating the amounts (but not the dates) ~~so~~ due by the retailers. The ~~form so~~ forms prescribed by the director shall be referred to as "retailers semi-monthly tax deposit" or "retailers monthly tax deposit". Deposit forms shall be signed by the retailer or ~~his~~ the retailer's duly authorized agent,

and ~~must~~ shall be duly certified by ~~him~~ the retailer or agent to be correct. The director may authorize incorporated banks and trust companies or other depositories authorized by law which are depositories or financial agents of the United States, or of this state, to receive any tax imposed under this chapter, in ~~such~~ the manner, at ~~such~~ the times and under ~~such~~ the conditions ~~as~~ the director ~~may prescribe~~ prescribes. The director shall prescribe the manner, times, and conditions under which the receipt of ~~such~~ the tax by ~~such banks and trust companies~~ those depositories is to be treated as payment of ~~such~~ the tax to the department.

Sec. 5. Section 422.58, subsection 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 10, is amended to read as follows:

1. If ~~any~~ a person fails to file a permit holder's semi-monthly or monthly tax deposit form or a return with the department ~~of revenue~~ on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the semi-monthly or monthly tax deposit form or 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 the failure continues, not exceeding twenty-five percent in the aggregate. If ~~any~~ a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the semi- monthly or monthly tax deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a return, willful filing of a false return or willful filing of a false or fraudulent return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a semi-monthly or monthly tax deposit form or return and failure to pay at least ninety percent of the tax due or required on the semi-monthly or monthly tax deposit form or return, the penalty ~~provision~~ for failure to file is in lieu of the penalty ~~provision~~ for failure to pay at least ninety percent of the tax due or required on the semi-monthly or monthly tax deposit form or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under ~~section 1 of this Act~~ Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1, for each month counting each fraction of a month as an entire month, computed from the date the semi-monthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

Sec. 6. Section 423.13, Code 1981, is amended to read as follows:

423.13 PAYMENT TO DEPARTMENT. Each permit holder required or authorized, pursuant to section 423.9 or 423.10, to collect or pay the tax ~~herein~~ imposed, shall ~~be required to pay~~ remit to the department the amount of ~~such~~ tax, on or before the last day of the month ~~next succeeding~~ following each calendar quarterly period. However, a retailer who collects or owes more than fifteen hundred dollars in use taxes in a month shall deposit with the department ~~or~~ in a depository authorized by law and designated by the director, the amount collected or owed, with a deposit form for the month as prescribed by the director. The deposit form is due on or before the twentieth day of the month following the month of collection, except a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly report on the last day of the month following the month of collection. At ~~such~~ that

time, ~~each such~~ the retailer shall file with the department a return for the preceding quarterly period in ~~such~~ the form ~~as may be~~ prescribed by the director showing the sales price of ~~any or all~~ the tangible personal property sold by the retailer during ~~such~~ the preceding quarterly period, the use of which is subject to the tax imposed by this chapter, and ~~such~~ other information ~~as~~ the director ~~may deem~~ deems necessary for the proper administration of this chapter. The return shall be accompanied by a remittance of the ~~amount of such~~ tax~~,~~ for the period covered by the return. If necessary in order to insure payment to the state of the ~~amount of such~~ tax, the director may in any or all cases require returns and payments ~~of such amount~~ to be made for other than quarterly periods. The director may, upon request and a proper showing of ~~the~~ necessity ~~therefor~~, grant an extension of time not to exceed thirty days for making any return and payment. Returns shall be signed by the retailer or ~~his~~ the retailer's duly authorized agent, and ~~must~~ shall be certified by ~~him~~ the retailer or agent to be correct.

Sec. 7. Section 423.18, subsection 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 11, is amended to read as follows:

1. If a person fails to file a monthly deposit form or a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the monthly deposit form or 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 the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the monthly deposit form or return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a monthly deposit form or return, willfully filing a false monthly deposit form or return, or willfully filing a false or fraudulent monthly deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the monthly deposit form or return fifty percent of the amount of the tax. When penalties are applicable for failure to file a monthly deposit form or return and failure to pay at least ninety percent of the tax due or required on the monthly deposit form or return, the penalty ~~provision~~ for failure to file is in lieu of the penalty ~~provision~~ for failure to pay at least ninety percent of the tax due or required on the monthly deposit form or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under ~~section 1 of this Act~~ Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1, for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be ~~enforced~~ collected in the same manner as the tax imposed by this chapter.

Sec. 8. This Act, except sections 3, 4, and 5, being deemed of immediate importance, takes effect April 1, 1982 from and after its publication in The Rolfe Arrow, a newspaper published in Rolfe, Iowa, and in the Osceola Sentinel, a newspaper published in Osceola, Iowa.

Sec. 9. Sections 3, 4, and 5 of this Act take effect January 1, 1983.

Approved March 3, 1982

I hereby certify that the foregoing Act, Senate File 2080 was published in the Osceola Sentinel, Osceola, Iowa on March 11, 1982 and in The Rolfe Arrow, Rolfe, Iowa on March 18, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1023

STATE INCOME, CORPORATE, FRANCHISE, AND INHERITANCE TAXES
H.F. 2171

AN ACT relating to taxation by updating references to the Internal Revenue Code in the state income, franchise, and inheritance tax laws, providing certain changes from and certain coordinating amendments to the Internal Revenue Code, providing for the assessment of computers and machinery used in manufacturing, increasing the personal property tax credit, imposing a minimum tax, increasing the state corporate tax rates, amending certain inheritance tax provisions, making an appropriation, specifying that no provision of the state income tax law requires the state commerce commission to allow or require a particular method of accounting by public utilities, and making certain provisions of the Act retroactive and making the Act effective upon publication.

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

Section 1. Section 422.4, subsection 17, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 132, section 2, 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, ~~1981~~ 1982.

Sec. 2. Section 422.5, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to all taxes imposed under this division, there is imposed upon every resident and nonresident, including resident and non-resident estates and trusts, of this state a state minimum tax for tax preference items equal to twenty-five percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is one hundred percent in the case of a resident and in the case of a nonresident a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preference items attributable to Iowa which shall be based as much as equitably possible on the allocation provisions of section 422.8, subsections 2 and 3. For purposes of this paragraph, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 through 58 of the Internal Revenue Code of 1954 for the tax year.

Sec. 3. Section 422.7, subsection 8, Code 1981, is amended to read as follows:

8. 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~~ expensing of business assets and capital loss provisions of sections 179(a) and 1211(b) respectively of the Internal Revenue Code of 1954 and shall compute the amount of ~~additional first-year depreciation~~ expensing of business assets and capital loss subject to the limitations for joint federal income tax return filers provided by sections 179(b) and 1211(b) respectively of the Internal Revenue Code of 1954.

Sec. 4. Section 422.7, Code 1981, is amended by adding the following new subsection:

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 state income tax purposes, may avail themselves of the dividend exclusion provisions of section 116(a) of the Internal Revenue Code of 1954 and shall compute the dividend exclusion subject to the limitations for joint federal income tax return filers provided by section 116(a) of the Internal Revenue Code of 1954.

Sec. 5. Section 422.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. The exclusion of interest income provided by section 128 of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for tax years beginning on or after January 1, 1981 and before January 1, 1984.

Sec. 6. Section 422.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. The deduction for a married couple where both persons are wage earners which is provided by section 221 of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for tax years beginning on or after January 1, 1982.

Sec. 7. Section 422.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. The deduction allowed under section 162(h) of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for any tax year beginning on or before December 31, 1980. The deduction allowed under section 604 of the tax reform Act of 1976, as amended up to and including December 31, 1980, is allowable in computing Iowa net income, for tax years beginning on or before December 31, 1980, under provisions effective for the year for which the return is made. The deduction allowed under section 162(h) of the Internal Revenue Code of 1954 is not applicable in computing Iowa net income for any tax year beginning on or after January 1, 1981. The deduction allowed under section 604 of the tax reform Act of 1976, as amended up to and including December 31, 1980, is allowable in computing Iowa net income for tax years beginning on or after January 1, 1981. The maximum allowable deduction, other than for travel expense, shall not exceed fifty dollars per day, where the taxpayer elects on the Iowa return to be governed by section 604 of the tax reform Act of 1976, as amended up to and including December 31, 1980, unless the taxpayer itemized expenses.

Sec. 8. Section 422.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Add the amounts deducted as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 to the extent that the amounts deducted are not otherwise deductible under the provisions of the Internal Revenue Code of 1954.

Sec. 9. Section 422.9, subsection 2, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Subtract the adoption deduction permitted under section 222 of the Internal Revenue Code of 1954.

Sec. 10. Section 422.9, subsection 3, paragraphs b and c, Code 1981, are amended to read as follows:

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~~ fifteen taxable years.

c. If the election under section 172(b)(3)(C) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward ~~seven~~ fifteen taxable years.

Sec. 11. Section 422.32, subsection 4, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 132, section 7, 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, ~~1981~~ 1982.

Sec. 12. Section 422.33, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. In addition to all taxes imposed under this division, there is imposed upon each corporation doing business within the state a state minimum tax for tax preference equal to twenty-five percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preferences attributable to Iowa which shall be based as much as equitably possible on the allocation and apportionment provisions of subsections 1 and 2. For purposes of this subsection, "federal minimum tax" means the federal minimum tax for tax preferences computed under sections 55 through 58 of the Internal Revenue Code of 1954 for the tax year.

Sec. 13. Section 422.33, unnumbered paragraph 4, Code 1981, is amended to read as follows:

On taxable income ~~of~~ between one hundred thousand dollars ~~or more~~ and two hundred fifty thousand dollars or any part thereof, the rate of ten percent.

On taxable income of two hundred fifty thousand dollars or more, the rate of twelve percent.

Sec. 14. Section 422.35, subsection 7, paragraphs b and c, Code 1981, are amended to read as follows:

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~~ fifteen taxable years.

c. If the election under section 172(b)(3)(C) of the Internal Revenue Code of 1954 is made, the Iowa net operating loss shall be carried forward ~~seven~~ fifteen taxable years.

Sec. 15. Section 422.35, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Add the amounts deducted as a result of the treatment provided sale-leaseback agreements under section 168(f)(8) of the Internal Revenue Code of 1954 to the extent that the amounts deducted are not otherwise deductible under the other provisions of the Internal Revenue Code of 1954.

Sec. 16. Section 422.60, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to all taxes imposed under this division, there is imposed upon each financial institution doing business within the state a state minimum tax for tax preference items equal to twenty-five percent of the state's apportioned share of the federal minimum tax. The state's apportioned share of the federal minimum tax is a percent equal to the ratio of the federal minimum tax on preferences attributable to Iowa to the federal minimum tax on all preferences. The director shall prescribe rules for the determination of the amount of the federal minimum tax on preferences attributable to Iowa which shall be based as much as equitably possible on the allocation and apportionment provisions of

section 422.63. For purposes of this subsection, "federal minimum tax" means the federal minimum tax for tax preferences computed and paid or payable under sections 55 through 58 of the Internal Revenue Code of 1954, as amended to and including January 1, 1982.

Sec. 17. Chapter 422, division VI, Code 1981, is amended by adding the following new section:

NEW SECTION. Nothing in this chapter shall be construed to require the Iowa state commerce commission to allow or require the use of any particular method of accounting by any public utility to compute its tax expense, depreciation expense, or operating expense for purposes of establishing its cost of service for rate-making purposes and for reflecting operating results in its regulated books of account.

Sec. 18. Section 427A.9, Code 1981, is amended by inserting after unnumbered paragraph 2 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section which require an increase in general fund revenues in excess of five and one-half percent, adjusted for changes in rate or basis, to increase the personal property tax credit, the amount of the personal property tax credit, to be allowed for taxes payable in the fiscal year beginning July 1, 1982 and ending June 30, 1983 shall be increased as provided in this section.

Sec. 19. Chapter 427B, Code 1981, is amended by adding sections 20 through 24 of this Act.

Sec. 20. NEW SECTION. For property defined in section 427A.1, subsection 1, paragraphs e and j acquired or initially leased after December 31, 1981, the taxpayer's valuation shall be limited to thirty percent of the net acquisition cost of the property. For purposes of this section, "net acquisition cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

For purposes of sections 20 to 24 of this Act:

1. Property assessed by the department of revenue pursuant to sections 428.24 to 428.29, or chapters 433, 434 and 436 to 438 shall not receive the benefits of sections 20 to 24 of this Act.

2. Property acquired on or before December 31, 1981 which was owned or used on or before December 31, 1981 by a related person shall not receive the benefits of sections 20 to 24 of this Act.

3. Property acquired after December 31, 1981 which was owned and used by a related person shall not receive any additional benefits under sections 20 to 24 of this Act.

4. Property which was owned or used on or before December 31, 1981 and subsequently acquired by an exchange of like property shall not receive the benefits of sections 20 to 24 of this Act.

5. Property which was acquired after December 31, 1981 and subsequently exchanged for like property shall not receive any additional benefits under sections 20 to 24 of this Act.

6. Property acquired on or before December 31, 1981 which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive the benefits of sections 20 to 24 of this Act.

7. Property acquired after December 31, 1981 which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive any additional benefits under sections 20 to 24 of this Act.

For purposes of this section, "related person" means a person who owns or controls the taxpayer's business and another business entity from which property is acquired or leased or to which property is sold or leased. Business entities are owned or controlled by the same person if the same person directly or indirectly owns or controls fifty percent or more of the assets or any class of stock or who directly or indirectly has an interest of fifty percent or more in the ownership or profits.

Sec. 21. NEW SECTION. On or before July 1 of each year, the assessor shall determine the taxpayer's value of the property specified in section 20 of this Act and the value at which the property would be assessed in the absence of sections 20 to 24 of this Act, and report the values to the county auditor.

On or before July 1 of the following year the county auditor shall prepare a statement listing for each taxing jurisdiction in the county:

1. The difference between the assessed value of property defined in section 427A.1, subsection 1, paragraphs e and j and assessed pursuant to section 20 of this Act as of January 1 of the preceding year, and the value at which the property would be assessed in the absence of sections 20 to 24 of this Act.

2. The tax levy rate for each taxing jurisdiction levied against assessments made as of January 1 of the previous year.

3. The machinery and computer tax replacement claim for each taxing district, which is equal to the amount determined pursuant to subsection 1 of this section, multiplied by the tax rate specified in subsection 2 of this section.

The county auditor shall certify and forward one copy of the statement to the state comptroller not later than July 1 of each year.

Sec. 22. NEW SECTION. Each county treasurer shall be reimbursed an amount equal to the machinery and computer tax replacement claim for that county determined pursuant to section 21, subsection 3, of this Act. The reimbursement shall be made in two equal installments on or before September 30 and March 30 of each year. The county treasurer shall apportion the disbursement in the manner provided in section 445.57.

Sec. 23. NEW SECTION. There is appropriated annually from the general fund of the state to the state comptroller an amount sufficient to carry out the provisions of sections 20 to 24 of this Act.

Sec. 24. NEW SECTION. Property defined in section 427A.1, subsection 1, paragraphs e and j and assessed under sections 20 to 24 of this Act shall not be eligible to receive a partial exemption under sections 427B.1 to 427B.6.

Sec. 25. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 132, sections 4 and 5, are repealed.

Sec. 26. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 147, section 14, is amended to read as follows:

SEC. 14. NEW SECTION. There is imposed upon the qualified heir an additional inheritance tax if, within ~~fifteen~~ ten years after the decedent's death and before the death of the qualified heir, the qualified heir disposes of, other than to a member of the family, any interest in qualified real property for which an election under section 13 of this Act was made or ceases to use for the qualified use the qualified real property for which an election under section 13 of this Act was made as prescribed in section 2032A(c) of the Internal Revenue Code of 1954. The additional inheritance tax shall be the amount computed under ~~sections 15 and~~ section 16 of this Act and shall be due six months after the date of the disposition or cessation of qualified use referred to in this section. The amount of the additional inheritance tax shall accrue interest at the rate of ten percent per year from nine months after the decedent's death to the due date of the tax. The tax shall be paid to the department of revenue and shall be deposited into the general fund of the state. Taxes not paid within the time prescribed in this section shall draw interest at the rate of ten percent per annum until paid. There shall not be an additional inheritance tax if the disposition or cessation occurs ten years or more after the decedent's death.

Sec. 27. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 147, section 15, is repealed.

Sec. 28. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 147, section 17, is amended to read as follows:

SEC. 17. NEW SECTION. A lien is created in favor of the state for the additional inheritance tax which may be imposed by section 14 of this Act on the qualified real property for which an election has been made under section 13 of this Act. The lien created by this section shall continue until the tax has been paid or ten years after the tax is due, whichever date occurs first. However, the lien shall expire ~~fifteen~~ ten years after the decedent's death if the qualified heir has not disposed of or ceased to use for the qualified use the qualified real property which would impose the tax under section 14 of this Act. The department of revenue may release the lien prior to the payment of the tax due, if any, if adequate security for payment of the tax is given.

Unless the lien has been perfected by recording in the office of the recorder in the county where the estate is probated, a transfer of the qualified real property 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 mortgagees, purchasers or judgment creditors. The lien may be foreclosed by the director of revenue in the same manner as is now prescribed for the foreclosure of real estate mortgages and upon judgment, execution shall be issued to sell as much of the property necessary to satisfy the tax, interest and costs due.

Sec. 29. The prohibition in section 422.16, subsection 11, paragraph e, on the waiver relating to reasonable cause of the addition to tax for underpayment of the estimated tax payable shall not apply with regard to the 1981 tax year to farmers and fishermen who have elected not to pay estimated taxes during the 1981 tax year and the director shall waive the addition to tax for underpayment of the estimated tax payable for the 1981 tax year to March 31, 1982 for reasonable cause.

Sec. 30. Sections 1, 5, 7, 8, 9, 11, 13, and 15 of this Act are retroactive to January 1, 1981 for tax years beginning on or after January 1, 1981.

Sec. 31. Sections 2, 3, 4, 6, 12, 16, and 25 of this Act are retroactive to January 1, 1982 for tax years beginning on or after January 1, 1982.

Sec. 32. Sections 10 and 14 of this Act are retroactive to January 1, 1976 for losses arising in tax years ending on or after January 1, 1976.

Sec. 33. Sections 19, 20, 21, 22, 23, and 24 of this Act are retroactive to December 31, 1981 for property acquired or leased after December 31, 1981.

Sec. 34. Sections 26, 27, and 28 of this Act are effective July 1, 1982 for estates of individuals dying on or after July 1, 1982.

Sec. 35. This Act, being deemed of immediate importance, takes effect from and after its publication in the Charles City Press, a newspaper published in Charles City, Iowa, and in The Record-Herald and Indianola Tribune, a newspaper published in Indianola, Iowa.

Approved March 3, 1982

I hereby certify that the foregoing Act, House File 2171 was published in the Charles City Press, Charles City, Iowa on March 11, 1982 and in The Record-Herald & Indianola Tribune, Indianola, Iowa on March 25, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1024

IOWA BEER AND LIQUOR CONTROL COUNCIL MEMBERSHIP

S.F. 213

AN ACT relating to the members of the Iowa beer and liquor control council.

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

Section 1. Section 123.6, Code 1981, is amended to read as follows:

123.6 APPOINTMENT – TERM – QUALIFICATIONS – COMPENSATION. Appointments shall be for five-year staggered terms beginning and ending as provided by section 69.19 and shall be made by the governor, subject to confirmation by the senate. Members of the council shall be chosen on the basis of managerial ability and experience as business executives. One member of the council may be the holder of or have an interest in a permit or license to manufacture alcoholic liquor or beer or sell alcoholic liquor or beer at wholesale or retail. Members may be reappointed for one additional term. Each member appointed shall receive ~~full~~ compensation for the member's services of ~~two thousand five hundred dollars per annum~~ forty dollars per diem in addition to reasonable and necessary expenses while attending meetings.

Sec. 2. Section 123.45, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~No~~ Except as provided in section 123.6, a council member or department employee shall not, directly or indirectly, individually, or as a member of a partnership or shareholder in a corporation, have any interest in dealing in or in the manufacture of alcoholic liquor or beer ~~nor~~, and shall not receive any kind of profit nor have any interest in the purchase or sale of alcoholic liquor or beer by persons so authorized under this chapter ~~except that~~. However, this provision shall not ~~prevent~~ prohibit any such member or employee from lawfully purchasing and keeping alcoholic liquor or beer in his or her possession for personal use.

Approved March 4, 1982

CHAPTER 1025

NOTICE TO CURE IN CONSUMER CREDIT TRANSACTIONS

H.F. 823

AN ACT relating to the requirements for giving a notice to cure in a consumer credit transaction.

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

Section 1. Section 537.5110, subsection 2, Code 1981, is amended to read as follows:

2. A creditor who believes in good faith that a consumer is in default may give the consumer

written notice of the alleged default, and, if the consumer has a right to cure the default, shall give the consumer the notice of right to cure provided in section 537.5111 before ~~exercising any right he may have to enforce~~ commencing any legal action in any court on an obligation of the consumer and before repossessing collateral. However, this subsection and subsection 4 do not require a creditor to give notice of right to cure prior to the filing of a petition by a creditor seeking to enforce the consumer's obligation in which attachment under chapter 639 is sought upon any of the grounds specified in section 639.3, subsections 3 through 12.

When property is attached without the giving of notice of right to cure as permitted by this subsection, the creditor immediately shall give notice of the attachment to the consumer in the same manner as prescribed by the rules of civil procedure for service of an original notice. The notice shall advise the consumer that the attachment may be discharged by the filing of a bond as provided in sections 639.42 and 639.45, or by the filing of a motion with the court to discharge the attachment pursuant to section 639.63. The notice required by this paragraph is in lieu of the notice requirements of sections 639.31 and 639.33.

When a motion is filed to discharge an attachment made without the giving of a prior notice of right to cure, the court shall hear the motion within three days of the filing of the motion to discharge. If the court finds that the attachment should not have been issued or should not have been levied on all or any part of the property held, the attachment shall be discharged in whole or in part and property wrongfully attached shall be returned to the consumer.

If the court finds that there was no probable cause to believe the grounds upon which the attachment was issued, the consumer may be awarded damages plus reasonable attorney's fees to be determined by the court.

Sec. 2. Section 537.5110, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If a creditor in a consumer credit transaction commences an action for money judgment prior to giving the customer notice of right to cure as required by this section and fails to follow the procedures set out in this section, the court shall dismiss the action without prejudice. If the action was commenced as a small claim under chapter 631, the creditor shall not be found to be in violation of this section for purposes of section 537.5201 and the penalties provided in that section shall not apply if the creditor proves by a preponderance of the evidence that the creditor did not at the time of the violation have either knowledge or reason to know of the requirements of this section, and for this purpose the court shall consider all relevant evidence, including but not limited to the education or experience of the creditor with respect to the collection of debts arising from consumer credit transactions and any representation of the creditor by legal counsel and any legal advice rendered to the creditor with respect to the collection of debts arising from consumer credit transactions.

Approved March 8, 1982

CHAPTER 1026

CITIZENS' AIDE OFFICE—INVESTIGATIONS, COMMUNICATIONS AND REPORTS

H.F. 829

AN ACT relating to the investigations, communications and reports of the citizens' aide office.

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

Section 1. Section 601G.9, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

601G.9 POWERS. The citizens' aide may:

1. Investigate, on complaint or on the citizens' aide's own motion, any administrative action of any agency, without regard to the finality of the administrative action, except that the citizens' aide shall not investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency. A communication or receipt of information made pursuant to the powers prescribed in this chapter shall not be considered an ex parte communication as described in the provisions of section 17A.17.

2. Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of this chapter, determine the form, frequency, and distribution of the conclusions and recommendations of the citizens' aide.

3. Request and receive from each agency assistance and information as necessary in the performance of the duties of the office. The citizens' aide may examine the records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. If the document sought is required by law to be kept confidential, the agency may refuse access until the citizens' aide demonstrates that the document is relevant or material to an investigation authorized under subsection 1. If the citizens' aide is provided access to the confidential document, the citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control.

4. Issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary or other evidence relevant to a matter under inquiry. The citizens' aide, deputies, and assistants of the citizens' aide may administer oaths to persons giving testimony before them. If a witness either fails or refuses to obey a subpoena issued by the citizens' aide, the citizens' aide may petition the district court having jurisdiction for an order directing obedience to the subpoena. If the court finds that the subpoena should be obeyed, it shall enter an order requiring obedience to the subpoena, and refusal to obey the court order is subject to punishment for contempt.

Sec. 2. Section 601G.13, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

601G.13 NO INVESTIGATION—NOTICE TO COMPLAINANT. If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the

decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the administrative agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

Sec. 3. Section 601G.18, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

601G.18 REPORT TO GENERAL ASSEMBLY. The citizens' aide shall by April 1 of each year submit an economically designed and reproduced report to the general assembly and to the governor concerning the exercise of the citizens' aide functions during the preceding calendar year. In discussing matters with which the citizens' aide has been concerned, the citizens' aide shall not identify specific persons if to do so would cause needless hardship. If the annual report criticizes a named agency or official, it shall also include unedited replies made by the agency or official to the criticism, unless excused by the agency or official affected.

Approved March 8, 1982

CHAPTER 1027

EXEMPTIONS FROM THE REAL ESTATE TRANSFER TAX AND FROM THE FILING OF A DECLARATION OF VALUE

S.F. 217

AN ACT to provide certain exemptions from the real estate transfer tax and the requirements relating to the filing of a declaration of value.

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

Section 1. Section 428A.1, unnumbered paragraph 2, Code 1981, is amended to read as follows:

At the time each deed, instrument, or writing by which any real property in this state ~~shall be~~ is 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~~ is not ~~be~~ required for those instruments described in section 428A.2, subsections 2 to 13 and 16 to 18, or where any transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain. The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section 172C.1, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, the declaration of value shall include the name and address of the buyer, the name and address of the seller, a legal description of the agricultural land, and identify the buyer as a corporation, limited partnership, trust, alien, or nonresident alien. 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~~ requires 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~~ the information ~~as~~ the director of revenue ~~may require~~ requires 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 chapter by the city or county assessor, send to the office of the secretary of state that part of the declaration of value which identifies a corporation, limited partnership, trust, alien, or nonresident alien as a purchaser of agricultural land as defined in section 172C.1. ~~The county recorder shall retain a copy of the declaration of value for the recorder's records, which shall be available for public inspection.~~

Sec. 2. Section 428A.2, subsection 11, Code 1981, is amended to read as follows:

11. Deeds between husband and wife, or parent and child, without actual consideration. A cancellation of indebtedness alone which is secured by the property being transferred and which is not greater than the fair market value of the property being transferred is not actual consideration within the meaning of this subsection.

Sec. 3. Section 428A.2, subsection 15, Code 1981, is amended to read as follows:

15. Deeds between a family corporation, partnership, or limited partnership and its stockholders or partners for the purpose of transferring real property in an incorporation or corporate dissolution or the organization or dissolution of a partnership or limited partnership under the laws of this state, where the deeds are given for no actual consideration other than for shares ~~of stock~~ or for debt securities of the corporation, partnership, or limited partnership. For purposes of this subsection a family corporation, partnership, or limited partnership is a corporation, partnership, or limited partnership where the majority of the voting stock of the corporation, or of the ownership shares of the partnership or limited partnership is held by and the majority of the stockholders or partners are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related and where all of its stockholders or partners are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons.

Sec. 4. Section 428A.2, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. 16. Deeds for the transfer of property or the transfer of an interest in property when the deed is executed between former spouses pursuant to a decree of dissolution of marriage.

NEW SUBSECTION. 17. Deeds transferring easements.

NEW SUBSECTION. 18. Deeds giving back real property to lienholders in lieu of forfeitures or foreclosures.

Approved March 11, 1982

CHAPTER 1028

REGULATION OF RECREATIONAL BOATS

S.F. 399

AN ACT relating to revision of laws governing recreational boating in Iowa, including penalties and scheduled fines for violations of boating laws.

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

Section 1. Section 88A.11, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Vessels inspected by officers appointed by the conservation commission under chapter 106.

Sec. 2. Section 106.2, subsection 4, Code 1981, is amended to read as follows:

4. "Waters of this state under the jurisdiction of the state conservation commission" means any navigable waters within the territorial limits of this state, and the marginal river areas adjacent to this state, exempting only farm ponds, and privately owned lakes ~~and waters specifically delegated to local authorities~~.

Sec. 3. Section 106.2, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. 20. "Boat livery" means a person who holds a vessel for hire, renting, leasing, or chartering including hotels, motels, or resorts which furnish a vessel to guests as part of the services of the business.

NEW SUBSECTION. 21. "Vessel for hire or commercial vessel" means a vessel for the use of which a fee of any nature is imposed including vessels furnished as a part of lodge, hotel, or resort services.

NEW SUBSECTION. 22. "Passenger" means a person carried on board a vessel, including the operator, and anyone towed by a vessel on water skis, surfboards, inner tubes, or similar devices.

NEW SUBSECTION. 23. "Operator" means a person who operates or is in actual physical control of a vessel.

NEW SUBSECTION. 24. "Inflatable vessel" means a vessel which achieves and maintains its intended shape and buoyancy by inflation.

NEW SUBSECTION. 25. "Inboard" means a vessel in which the engine is located internally, the propulsion system is rigidly attached to the engine, and the propulsion mechanism is within the confines of the vessel's extreme length and beam.

NEW SUBSECTION. 26. "Inboard-outdrive" means a vessel in which the power plant or engine is located inside of the vessel and the propulsion mechanism is located outside of the transom.

Sec. 4. Section 106.3, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The state conservation commission ~~is hereby authorized to~~ may adopt, ~~promulgate~~ and enforce ~~such~~ rules ~~and regulations~~ under chapter 17A as ~~may be~~ necessary to carry out ~~the provisions of~~ this chapter and to protect private and public property and the health, safety, and welfare of the public. In adopting rules, the commission shall give consideration to the various uses to which they may be put by and for public and private purposes, the preservation of each body of water, its bed, waters, ice, banks, and public and private property attached thereto, and the need for uniformity of rules relating to the use, operation, and equipment of vessels and vehicles.

Sec. 5. Section 106.4, Code 1981, is amended to read as follows:

106.4 OPERATION OF UNNUMBERED VESSELS PROHIBITED. Every ~~undocumented~~ vessel except as provided in section 106.6 on the waters of this state under the jurisdiction of the state conservation commission ~~and waters specifically delegated to local authorities~~ shall be numbered. ~~No~~ A person shall not operate, maintain or give permission for the operation or maintenance of any ~~such~~ vessel on such waters unless the vessel is numbered in accordance with this chapter or in accordance with applicable federal laws or in accordance with a federally approved numbering system of another state and unless the certificate of number awarded to ~~such~~ the vessel is in full force and effect ~~and the identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel.~~

Sec. 6. Section 106.5, subsection 1, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The owner of ~~such~~ the vessel 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 vessel and shall be accompanied by a fee of eight dollars for each motorboat or sailboat, four dollars for any other vessel without sail or motor, and a writing fee ~~of one dollar~~. Upon applying for registration the owner shall surrender the certificate of origin to the county recorder. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter ~~the same~~ it upon the records of the recorder's office 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 the vessel, the passenger capacity of the vessel and the name and address of the owner. In the use of all vessels except nonpowered sailboats, nonpowered canoes and commercial vessels the registration certificate shall be carried either in the vessel or on the person of the operator of the vessel when in use. In the use of nonpowered sailboats, nonpowered canoes or commercial vessels, the registration certificate may be kept on shore in accordance with rules promulgated by the commission. The operator shall exhibit the certificate to any peace officer upon request, or, when involved in a collision or accident of any nature with another vessel or other personal property, to the owner or operator of the other vessel or personal property.

Sec. 7. Section 106.5, subsection 3, Code 1981, is amended to read as follows:

3. Every registration certificate and number issued ~~hereunder~~ shall become delinquent at midnight April 30, 1975, and every two years thereafter unless sooner terminated or discontinued in accordance with ~~the provisions of~~ this chapter. After the first day of January in odd-numbered years any unregistered vessels and renewals of registrations may be so registered for the subsequent biennium beginning May 1. After the first day of January in even-numbered years any unregistered motorboat or sailboat may be registered at the rate of four dollars and any other unregistered vessel without sail or motor may be registered at the rate of two dollars for the remainder of the current biennium, plus a writing fee ~~of fifty cents~~ for each registration. ~~All registrations shall become delinquent as hereinabove stated.~~ Registration certificates and numbers may be renewed upon application of the owner in the same manner as provided for in securing the original registration.

If a timely application for renewal is made, the applicant shall receive the same registration number allocated to ~~him~~ the applicant for the previous registration period. If the application for registration for the biennium is not made before May 1 of each odd-numbered year, the applicant shall be charged a penalty of ~~one dollar~~ two dollars for each six months, or any portion thereof, ~~he~~ the applicant is delinquent. Provided~~, however,~~ that if ~~the~~ a registration is not

renewed for two consecutive registration periods, the number of ~~said~~ the delinquent registration may be assigned to another ~~applicant~~ person, and upon application for registration by ~~said~~ the delinquent registrant, he or she shall be assigned a new registration number and shall not be charged any penalties.

Sec. 8. Section 106.5, subsection 4, Code 1981, is amended to read as follows:

4. ~~Whenever any~~ If a person, after registering a vessel, moves from the address shown on the registration certificate, ~~he~~ the person shall, within ten days, notify the county recorder in writing of ~~his~~ the old and new address. If appropriate, the county recorder shall forward all past records of ~~such~~ the vessel to the recorder of the county in which the owner resides.

~~Whenever~~ If the name of ~~any~~ a person, who has registered a vessel, is ~~thereafter~~ changed, ~~he~~ the person shall, within ten days, notify the county recorder of ~~such~~ the former and new name.

No fee shall be paid to the county recorder for making the ~~aforementioned~~ changes mentioned in this subsection, unless the owner requests a new registration certificate showing the change, in which case a fee of one dollar plus a ~~twenty-five cent~~ writing fee shall be paid to the recorder.

If a registration certificate is lost, mutilated or becomes illegible, the owner shall immediately make application for and obtain a duplicate registration certificate by furnishing information satisfactory to the county recorder.

A fee of one dollar plus a ~~twenty-five cent~~ writing fee shall be paid to the county recorder for a duplicate registration certificate.

If a vessel, registered under ~~the provisions of~~ this chapter, is destroyed or abandoned, ~~such~~ the destruction or abandonment shall be reported to the county recorder and the registration certificate shall be forwarded to the office of the county recorder within ten days after ~~such~~ the destruction or abandonment.

Sec. 9. Section 106.5, subsections 6 and 7, Code 1981, are amended to read as follows:

6. The owner of each vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto shall register it every two years with the county recorder in the same manner prescribed for undocumented vessels and shall cause the registration validation decal to be placed on the vessel in the manner prescribed by the rules of the commission. When ~~such~~ the vessel bears the identification required in the documentation, it ~~shall be~~ is exempt from the placement of the identification numbers as required on undocumented vessels. The fee for such registration ~~shall be~~ is twenty-five dollars plus ~~the usual~~ a writing fee.

7. If the owner of a currently registered vessel places ~~such~~ the vessel in storage, ~~he~~ the owner 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~~ the 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~~ the owner shall ~~make application~~ apply to the county recorder and pay the registration fees plus a writing fee as provided in subsections 1 and 3 without penalty. No refund of registration fees shall be allowed for a stored vessel.

Sec. 10. Section 106.7, subsection 4, Code 1981, is amended to read as follows:

4. All reports shall be in writing, and the written report shall be without prejudice to the individual so reporting and shall be for the confidential use of the commission. ~~Provided however~~ However, upon ~~the~~ request ~~of any person involved in an occurrence covered under the provisions of this section, or the attorney for such person,~~ the commission shall disclose the ~~identity~~ identities of the ~~person~~ persons on board the vessels involved in the occurrence

and ~~his address~~ their addresses. A written report filed with the commission shall not be admissible in or used in evidence in any civil or criminal action arising out of the facts on which the report is based.

Sec. 11. Section 106.9, subsection 2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Every vessel, in all weathers, from sunset to sunrise, shall carry and exhibit the following lights when underway, and during ~~such~~ that time shall exhibit no other lights which may be mistaken for those required except that the international lighting system as approved by the United States coast guard will be accepted for use on motorboats on the waters of this state.

Sec. 12. Section 106.9, subsection 2, paragraph d, Code 1981, is amended by striking the paragraph.

Sec. 13. Section 106.9, subsection 6, Code 1981, is amended to read as follows:

6. Every vessel shall carry at least one life preserver, life belt, ring buoy or other device, of the sort prescribed by the ~~regulations~~ rules of the commission, for each ~~person on board~~ passenger, so placed as to be readily accessible. This does not apply to a vessel which is a racing shell used in the sport of sculling.

Sec. 14. Section 106.11, Code 1981, is amended to read as follows:

106.11 MUFFLING DEVICES. The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the total vessel noise ~~of the exhaust~~ in a reasonable manner in accordance with rules adopted by the commission. The use of cut-outs is prohibited, except for motorboats competing in a regatta or boat race approved as provided in section 106.16 and for such motorboats while on trial run during a period from 8:00 a.m. to 6:00 p.m. not to exceed ~~forty-eight~~ twenty-four hours immediately preceding such regatta or race ~~and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight hours immediately following such regatta or race~~.

Sec. 15. Section 106.12, subsection 2, Code 1981, is amended to read as follows:

2. No person shall operate any vessel, or manipulate any water skis, surfboard or similar device while ~~intoxicated or~~ under the influence of ~~any~~ an alcoholic beverage, marijuana, a narcotic, hypnotic or other drug, ~~barbiturate or marijuana~~ or any combination of these substances. However, this subsection shall not apply to a person operating any vessel or manipulating any water skis, surfboard or similar device while under the influence of marijuana, or a narcotic, hypnotic or other drug if the substances were prescribed for the person and have been taken under the prescription and in accordance with the directions of a medical practitioner as defined in section 155.3, subsection 11, provided there is no evidence of the consumption of alcohol and further provided the medical practitioner has not directed the person to refrain from operating a motor vehicle, any vessel or from manipulating any water skis, surfboard or similar device.

Sec. 16. Section 106.12, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. 7. A person shall not operate watercraft in a manner which unreasonably or unnecessarily interferes with other watercraft or with the free and proper navigation of the waters of the state. Anchoring under bridges, in a heavily-traveled channel, in a lock chamber, or near the entrance of a lock constitutes such interference if unreasonable under the prevailing circumstances.

NEW SUBSECTION. 8. A person shall not operate a vessel in violation of restrictions as given by state-approved buoys or signs marking an area.

NEW SUBSECTION. 9. A person shall not operate on the waters of this state under the jurisdiction of the commission a vessel equipped with an engine of greater horsepower rating

than is designated for the vessel by the federally-required capacity plate or by the manufacturer's plate on those vessels not covered by federal regulations.

NEW SUBSECTION. 10. A person shall not leave an unattended vessel tied or moored to a dock which is placed immediately adjacent to a public boat launching ramp or to a dock which is posted for loading and unloading.

Sec. 17. Section 106.13, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Any person violating any of the provisions of this chapter, or any of the rules adopted under this chapter, for which another penalty is not otherwise specifically provided, ~~shall be~~ is guilty of a simple misdemeanor.

Sec. 18. Section 106.14, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Whoever~~, while in an intoxicated condition or under influence of narcotic drugs,~~ operates a vessel or manipulates any water skis, surfboard or similar device upon the public waters of this state, while under the influence of an alcoholic beverage, marijuana, a narcotic, hypnotic or other drug, or any combination of these substances, not permitted by section 106.12, subsection 2, shall, upon conviction or a plea of guilty be punished, 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 of not to exceed one year, or by both such fine and imprisonment; 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 for a third offense and each offense thereafter, by imprisonment ~~in the penitentiary~~ for a period not to exceed three years.

Sec. 19. Section 106.15, subsection 2, Code 1981, is amended by striking the subsection.

Sec. 20. Section 106.17, subsection 1, Code 1981, is amended to read as follows:

1. ~~The provisions of this~~ This chapter and other applicable laws of this state ~~shall~~ govern the operation, equipment, numbering and all other matters relating thereto of any vessel whenever ~~such~~ the vessel is operated or maintained on the waters of this state under the jurisdiction of the commission, but ~~nothing in~~ this chapter ~~shall be construed to~~ does not prevent the adoption of any ordinance or local law relating to the operation ~~of~~ or equipment of vessels. Such ordinances or local law ~~shall be~~ are operative only so long as they are not inconsistent with ~~the provisions of~~ this chapter or the rules ~~and regulations~~ adopted by the commission.

Sec. 21. Section 106.17, subsection 3, Code 1981, is amended to read as follows:

3. The commission ~~is hereby authorized~~, upon application of local authorities ~~to~~, may make special rules ~~and regulations~~, in conformity with this chapter, concerning the operation of vessels on any waters of this state under the jurisdiction of the commission within the territorial limits of any subdivision of this state. Special rules shall only be adopted upon a finding by the commission that the rules are necessary to carry out the policies and purposes of this chapter due to special conditions with regard to a particular body of water and that the special rules provide greater protection to the public health, safety, and welfare than the rules of general application.

Sec. 22. Section 106.26, Code 1981, is amended to read as follows:

106.26 RIGHT OF WAY RULES – SPEED AND DISTANCE RULES – ZONING WATER AREAS.

1. Vessel traffic shall be governed by the following rules:

~~1~~ a. Passing from rear – keep to the operator's left.

~~2~~ b. Passing head on – keep to the operator's right.

~~3~~ c. Passing at right angles – vessel at the right has the right of way.

4 d. Manually propelled vessels have the right of way over all other vessels.

5 e. Sailboats have the right of way over all motor driven vessels. Motorboats, when meeting or overtaking sailboats, shall always pass on the leeward side.

6 f. Any vessel backing from a landing has the right of way over incoming vessels.

7 g. ~~The~~ When necessary to protect the public health, safety, and welfare due to the physical nature and characteristics of any waters under the jurisdiction of the commission, the commission ~~is authorized to~~ may promulgate further rules ~~and regulations~~ governing vessel traffic on such waters.

2. The commission may adopt rules governing all activities on waters and ice of this state under the jurisdiction of the commission, including impoundments constructed by or in cooperation with the federal government, when necessary and desirable to permit appropriate utilization of specific water areas, consistent with section 106.3. The rules may include rules relating to the following:

a. Zoning as to area, activity, vessel, or vehicle, speed, and time of day during which specified activities are permitted.

b. Horsepower, size, and types of vessels and vehicles which may be operated.

c. Safety precautions and practices required.

8 3. Except as provided in special rules promulgated under ~~the authority of~~ this chapter, the following speed and distance regulations ~~shall~~ apply:

a. On all waters under the jurisdiction of the state conservation commission:

(1) ~~No~~ A motorboat shall not be operated at speeds greater than five miles per hour when within ~~two~~ one hundred ~~fifty~~ feet of another craft traveling at five miles per hour or less ~~or any sailboat at any time~~.

(2) Motorboats shall maintain a minimum passing or meeting distance of fifty feet when both boats are traveling at speeds greater than five miles per hour.

(3) A motorboat shall not be operated at a speed exceeding ten miles per hour unless vision is unobstructed at least two hundred feet ahead.

b. On all inland lakes and federal impoundments under the jurisdiction of the state conservation commission:

~~(1) No motorboat shall be operated at a speed exceeding five miles per hour unless vision is unobstructed at three hundred feet ahead.~~

~~(2)~~ ~~No~~ a motorboat shall not be operated within three hundred feet of shore at a speed greater than ten miles per hour.

Sec. 23. Section 106.27, Code 1981, is amended to read as follows:

106.27 REMOVAL OF NONPERMANENT STRUCTURES. Every ~~vessel or~~ structure, not considered a permanent structure by the commission or excepted by the ~~regulations~~ rules of the commission, shall be removed from the waters, ice, or land of this state under the jurisdiction of the commission on or before December 15 of each year. Failure to comply with this section shall cause ~~said vessel or~~ the structure to be declared a public nuisance and disposition shall be in accordance with sections 110.32 to 110.34. ~~Provided, however, that structures used for seasonal or year-round habitation purposes shall not be removed.~~

Sec. 24. Section 106.28, Code 1981, is amended to read as follows:

106.28 UNWORTHY VESSELS DRYDOCKED. ~~No~~ A person shall not place or allow to remain in the waters of this state under the jurisdiction of the commission, any vessel which has failed to pass inspection. All vessels shall be seaworthy for the waters on which they are being used.

Sec. 25. Section 106.29, Code 1981, is amended to read as follows:

106.29 OFFICIAL DUTY EXEMPTED. ~~Members~~ Peace officers, members of the commission, its deputies, agents and employees ~~shall~~ are not ~~be deemed~~ violating the provisions of

this chapter while ~~on emergency duty and~~ acting within the scope of their employment in search and rescue operations, law enforcement duty, emergency duty, and other resource management activities as determined by rules of the commission.

Sec. 26. Section 106.31, Code 1981, is amended to read as follows:

106.31 ARTIFICIAL LAKES.

1. ~~No motorboats shall~~ Except as provided in special rules adopted under this chapter, a motorboat shall not be permitted on any artificial lake under the jurisdiction of the conservation commission except the following:

a. ~~Boats~~ A motorboat equipped with one outboard battery operated electric trolling motor of not more than one and one-half horsepower.

b. ~~Boats~~ A motorboat equipped with an outboard ~~motors~~ motor of not more than ~~six~~ ten horsepower on all artificial lakes of more than one hundred acres in size.

~~2. No person shall operate any sailboat on any artificial lake under the jurisdiction of the commission except those lakes specifically designated by the commission. All sailboats, so operated, must be of a type and size approved by the commission.~~

~~3~~ 2. All privately owned ~~boats~~ vessels on artificial lakes under the jurisdiction of the commission shall be kept at locations designated by the commission.

~~4~~ 3. All privately owned ~~rowboats~~ vessels, used on or kept at the artificial lakes under the jurisdiction of the commission, shall be seaworthy for the waters where they are kept and used. All such ~~boats~~ vessels shall be removed from state property whenever ordered by the commission, and, in any event, shall be removed from such property not later than December 15 of each year.

~~5~~ 4. Upon construction of an artificial lake by ~~any~~ a political subdivision of this state, ~~such~~ the subdivision may, after publication in a newspaper of general circulation in the subdivision, make formal application to the commission for special rules relating to the operation of watercraft on ~~such~~ the lake, and shall set forth therein the reasons which make such special rules necessary or appropriate. The commission ~~shall~~ may promulgate ~~such~~ the special rules as provided in this chapter, concerning the operation of watercraft on a lake constructed and maintained by a subdivision of this state. Such special rules may include the following:

a. Zoning by area and time to regulate navigation and other types of activity.

b. Regulating the horsepower, size and type of watercraft.

~~6. The commission may promulgate special rules concerning all activities on impoundments constructed by or in co-operation with the federal government. Such rules may include the following:~~

~~a. Zoning by area and time to regulate navigation and other types of activity.~~

~~b. Regulating the horsepower, size and type of watercraft.~~

Sec. 27. Section 106.32, subsection 3, Code 1981, is amended to read as follows:

3. It ~~shall be~~ is unlawful to tamper with, move or attempt to move or, except in an emergency, moor a vessel to any ~~state-owned~~ waterway marker or state-approved buoy or sign.

Sec. 28. Section 106.33, Code 1981, is amended to read as follows:

106.33 DRIVING OVER ICE. ~~No~~ A craft or vehicle operating on the surface of ice on the ~~inland~~ lakes and streams of this state including boundary streams and lakes and propelled by sail or by machinery in whole or in part, except ~~ice-cutting machinery,~~ automobiles, motorcycles and trucks licensed under chapter 321 or snowmobiles registered under chapter 321G when ~~such~~ they are used without endangering public safety, shall not be operated without a permit issued, by the commission, for such operation. Any such permit issued may be revoked by the commission if ~~such~~ the craft or vehicle is operated in a careless manner ~~as~~ which endangers others. Except when authorized by a permit for a special event, automobiles, motorcycles, and trucks when used on the ice of waters under the jurisdiction of the commission

shall not exceed fifteen miles per hour and shall be operated in a reasonable and prudent manner.

Sec. 29. Section 106.53, Code 1981, is amended by striking the section and inserting the following in lieu thereof:

106.53 AMOUNT OF WRITING FEES. A writing fee of one dollar for each transaction shall be collected by the county recorder. If two or more functions are transacted for the same vessel at one time, the writing fee is limited to one dollar.

Sec. 30. Chapter 106, Code 1981, is amended by adding sections 31 through 36 of this Act.

Sec. 31. NEW SECTION. INSPECTION AUTHORITY. An officer of the commission may stop and inspect a vessel being launched, being operated, or being moored on the waters of this state under the jurisdiction of the state conservation commission to determine whether the vessel is properly registered, numbered, and equipped as provided under this chapter and rules of the commission. An officer may board a vessel in the course of an inspection if the operator is unable to supply visual evidence that the vessel is properly registered and equipped as required by this chapter and rules of the commission. The inspection shall not include an inspection of an area that is not essential to determine compliance with the provisions of this chapter and rules of the commission.

Sec. 32. NEW SECTION. INSPECTION DEFICIENCY ORDER. If after performing an inspection the officer determines that the vessel is not properly registered, numbered, or equipped, the officer may issue an inspection deficiency order or citation to the operator of the vessel. The inspection deficiency order may indicate any deficiencies found to exist during the inspection and shall direct the owner or operator of the vessel to properly register or number the vessel or have equipment repairs or replacements made and return a copy of the inspection deficiency order with proof of compliance with the registration, numbering, or equipment requirements to the commission within fourteen days. If such proof is not provided within fourteen days, the owner or operator is in violation of this chapter.

Sec. 33. NEW SECTION. TERMINATION OF USE. A vessel for which an inspection deficiency order has been issued shall cease to be used as soon as possible and shall not be launched upon the waters of this state under the jurisdiction of the state conservation commission until the vessel is in compliance with the registration, numbering, or equipment requirement for which the order was issued.

Sec. 34. NEW SECTION. PUBLIC USE OF WATER FOR NAVIGATION PURPOSES. Water occurring in any river, stream, or creek having definite banks and bed with visible evidence of the flow of water is flowing surface water and is declared to be public waters of the state of Iowa and subject to use by the public for navigation purposes in accordance with law. Land underlying flowing surface water is held subject to a trust for the public use of the water flowing over it. Such use is subject to the same rights, duties, limitations, and regulations as presently apply to meandered streams, or other streams deemed navigable for commercial purposes and to any reasonable use by the owner of the land lying under and next to the flowing surface water.

Sec. 35. NEW SECTION. HULL IDENTIFICATION, CAPACITY PLATES, WARNING LABELS.

1. ALTERING OR CHANGING NUMBERS ON PLATES.

a. A person shall not with fraudulent intent, deface, destroy, or alter the hull identification number, capacity plate, or any other plate, warning label, or instrument required by state or federal law on a vessel or component part nor shall a person place or stamp a hull identification number, capacity plate, or any other warning label or instrument upon a vessel or component part except one assigned thereto by state or federal law.

b. This section does not prohibit the restoration of an original hull identification number, capacity plate, or any other original plate, warning label, or instrument required by state or federal law when the restoration is made by the commission nor prevent a manufacturer from placing in the ordinary course of business numbers, plates, or marks upon vessels or component parts.

2. TEST TO DETERMINE TRUE NUMBER OR PLATE. When it appears that a hull identification number, capacity plate, or any other plate, warning label, or instrument required by state or federal law has been altered, defaced, or tampered with, a peace officer or inspector employed by the commission or any other person acting under the direction of a peace officer or inspector, may apply any recognized process or test to the vessel or part containing such number or plate for the purpose of determining the true number or plate content.

3. RIGHT OF INSPECTION. Peace officers or examiners employed by the commission may inspect any vessel or component part in possession of any person or found upon the waters of this state under the jurisdiction of the commission or in a public mooring or storage area or enclosure in which vessels or component parts are kept for sale, storage, hire, or repair and to determine vessel or component part identification may board the vessel or enter the public mooring or storage area or enclosure.

4. PENALTY. A person who is convicted of a violation of any of the provisions of this section or rules adopted under this section by the commission is guilty of a class D felony.

Sec. 36. NEW SECTION. RECIPROCITY. The director, with the consent of the commission, may enter into agreements with the appropriate regulatory agencies of other states as necessary or convenient to carry out the purposes of this chapter and not inconsistent with this chapter, and may do all acts contained in the agreements.

The agreements may include, but are not restricted to, the following provisions:

1. Regulations in regard to registration, numbering, and equipment of vessels.
2. Operating requirements for vessels and vessel operators.
3. Enforcement activity of officers.

Sec. 37. Section 805.8, subsection 3, paragraphs a, b and c, Code 1981, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. For violations of registration, inspections, identification, and record provisions under sections 106.5, 106.35, 106.37, and for unused or improper or defective lights and warning devices under section 106.9, subsections 3, 4, 5, 9, and 10, the scheduled fine is ten dollars.

b. For violations of registration, identification, and record provisions under sections 106.4 and 106.10 and for unused or improper or defective equipment under section 106.9, subsections 2, 6, 7, 8, and 13, and section 106.11 and for operation violations under sections 106.26, 106.31 and 106.33, the scheduled fine is twenty dollars.

c. For operating violations under sections 106.12, 106.15, subsection 1, 106.24, and 106.34, the scheduled fine is twenty-five dollars. However, a violation of section 106.12, subsection 2, is not a scheduled violation.

Sec. 38. Section 805.8, subsection 3, paragraphs d and e, Code 1981, are amended by striking the paragraphs.

Sec. 39. Section 805.8, subsection 3, paragraph g, Code 1981, is amended to read as follows:

g. For violations of all subdivision ordinances under section 106.17, subsection 2, except those relating to matters subject to regulation by authority of subsection 5 of section 106.31, the scheduled fine is ~~ten dollars, whether or not a different scheduled fine is prescribed elsewhere in this subsection~~ the same as prescribed for similar violations of state law. For violations of subdivision ordinances for which there is no comparable state law the scheduled fine is ten dollars.

Approved March 11, 1982

CHAPTER 1029

STATE EMPLOYEE SUGGESTION SYSTEM

H.F. 2341

AN ACT relating to establishing a state employee suggestion system.

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

Section 1. Section 19.33, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

19.33 STATE EMPLOYEE SUGGESTION SYSTEM.

1. There is created a state employee suggestion system for the purpose of encouraging state employees to develop and submit ideas which will reduce costs and increase efficiency in state government and which will make monetary and other awards to state employees whose cost reduction ideas are adopted under the system.

2. The state comptroller shall provide necessary personnel for the efficient operation of the system. The state comptroller with approval of the executive council shall adopt rules as necessary for the administration of the system and to establish the award policy under which the system will operate. The rules shall include:

a. Eligibility standards and restrictions for both the state employee submitting the suggestion and the suggestion being submitted. The rules shall provide that suggestions relating to academic affairs, including teaching, research, and patient care programs at a university teaching hospital are ineligible.

b. Procedures for submitting and evaluating suggestions, including the responsibilities of each person involved in the system and providing that the final decision to implement shall be made by the director of the agency.

c. The method of payment or presentation of awards to employees.

d. Any other policies necessary to properly administer the system.

3. The executive council shall appoint an awards committee to review all suggestions being implemented by the departments. The awards committee shall determine each cash amount to be awarded to each suggester for an eligible cost reduction suggestion. The committee shall hear appeals regarding eligibility or award amounts. The appeal decisions made by the awards committee are final.

4. a. When a suggestion results in a direct cost reduction within state government, the suggester shall be awarded ten percent of the first year's net savings, not exceeding two thousand five hundred dollars. A cash award shall not be paid for a suggestion which saves less than one hundred dollars during the first year of implementation.

b. Appropriate noncash awards may be offered as an option to cash awards. The awards committee shall determine the optional noncash awards and the circumstances under which an option may be offered to a suggester.

5. An award made pursuant to this section shall be paid out of the appropriated funds of the department realizing the cost savings, but the payment of awards shall not violate any state or federal contract, law or regulation, or impair any agency contractual obligation.

6. There is created in the state treasury a valuable ideas for productivity fund. Each department shall transfer an amount equal to one-fifth of the first-year net savings of each implemented suggestion into the fund. The fund shall be used to pay the costs of administering the state employee suggestion system and providing a funding source for implementation of

suggestions by state departments. Expenditures from the fund shall be made on warrants drawn by the state comptroller. Any excess funds shall revert from the valuable ideas for productivity fund to the fund from which the money was originally appropriated on a prorated basis.

7. a. A department shall keep records of each suggestion implemented and the cost savings resulting from the suggestion for a period of one year from the date of implementation of the suggestion.

b. The state comptroller shall file a report with the governor and the general assembly for each fiscal year, relating to the administration and implementation of the suggestion system and the benefits for the state, the state departments, and state employees.

8. The awards committee may also authorize payment of awards as established in subsection 4 to designated groups of state employees who develop ideas to reduce costs. Rules for the administration of group awards shall be promulgated by the state comptroller and approved by the executive council.

9. The ability of employees to patent ideas submitted under this section is subject to all other agency rules and Code requirements pertaining to patents.

10. As used in this section, "department" means any department, agency, board, bureau, commission or other administrative office or unit of this state.

Approved March 11, 1982

CHAPTER 1030

CHANGES IN STATE UNEMPLOYMENT COMPENSATION LAW REQUESTED BY THE FEDERAL DEPARTMENT OF LABOR

H.F. 2347

AN ACT relating to changes in Iowa's unemployment compensation law mandated by the federal Omnibus Budget Reconciliation Act of 1981 and requested by the federal department of labor.

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

Section 1. Section 96.3, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. CHILD SUPPORT INTERCEPT.

a. An individual filing a claim for benefits under section 96.6, subsection 1 shall, at the time of filing, disclose whether the individual owes a child support obligation which is being enforced by the child support recovery unit established in section 252B.2. If an individual discloses that such a child support obligation is owed and the individual is determined to be eligible for benefits under this chapter, the department shall notify the child support recovery unit of the individual's disclosure and deduct and withhold from benefits payable to the individual the amount specified by the individual.

b. However, if the child support recovery unit and an individual owing a child support obligation reach an agreement to have specified amounts deducted and withheld from the individual's benefits and the child support recovery unit submits a copy of the agreement to the department, the department shall deduct and withhold the specified amounts.

c. However, if the department is garnisheed by the child support recovery unit under chapter 642 and an individual's benefits are condemned to the satisfaction of the child support obligation being enforced by the child support recovery unit, the department shall deduct and withhold from the individual's benefits that amount required through legal process.

Notwithstanding section 642.2, subsections 2, 3, 5, and 6 which restrict garnishments under chapter 642 to wages of public employees, the department may be garnisheed under chapter 642 by the child support recovery unit established in section 252B.2, pursuant to a judgment for child support against an individual eligible for benefits under this chapter.

Notwithstanding section 96.15, benefits under this chapter are not exempt from garnishment, attachment, or execution if garnisheed by the child support recovery unit, established in section 252B.2, to satisfy the child support obligation of an individual who is eligible for benefits under this chapter.

d. An amount deducted and withheld under paragraph a, b, or c shall be paid by the department to the child support recovery unit, and shall be treated as if it were paid to the individual as benefits under this chapter and as if it were paid by the individual to the child support recovery unit in satisfaction of the individual's child support obligations.

e. If an agreement for reimbursement has been made, the department shall be reimbursed by the child support recovery unit for the administrative costs incurred by the department under this section which are attributable to the enforcement of child support obligations by the child support recovery unit.

Sec. 2. Section 96.4, subsection 6, Code 1981, is amended to read as follows:

6. a. ~~Notwithstanding any other provisions in this subsection, no~~ An otherwise eligible individual shall not be denied benefits for any week because ~~he or she~~ the individual is in training with the approval of the director, nor shall ~~such~~ the individual be denied benefits with respect to any week in which ~~he or she~~ the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 ~~of this section~~ relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, ~~no~~ an employer's account shall not be charged with benefits so paid.

b. An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. sec. 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. sec. 2319(l), if wages for the work are not less than eighty percent of the individual's weekly benefit amount.

Sec. 3. Section 96.19, subsection 25, Code 1981, is amended to read as follows:

25. "Extended benefit period" means a period which:

~~a. Begins~~ begins with the third week after ~~whichever of the following weeks occurs first:~~

~~(1) A week for which there is a national "on" indicator, or~~

~~(2)~~ A a week for which there is a state "on" indicator, and

~~b. Ends~~ ends with either of the following weeks, whichever occurs later:

~~(1)~~ a. The third week after the first week for which there is ~~both~~ a ~~national "off" indicator and~~ a state "off" indicator~~, or~~.

~~(2)~~ b. The thirteenth consecutive week of such period.

~~Provided that no~~ However, an extended benefit period ~~may~~ shall not begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state~~, and~~.

~~Provided further that no extended benefit period may become effective in this state prior to January 1, 1972.~~

Sec. 4. Section 96.19, subsections 26 and 27, Code 1981, are amended by striking the subsections. The Code editor shall hold the subsections in reserve and shall not renumber the subsections of section 96.19.

Sec. 5. Section 96.19, subsection 28, Code 1981, is amended to read as follows:

28. There is a state "on" indicator for a week if the rate of insured unemployment under the state law for the period consisting of ~~such~~ the week and the immediately preceding twelve weeks equaled or exceeded ~~four~~ five percent and equaled or exceeded one hundred twenty percent of the average of the rates for the corresponding thirteen-week period ending in each of the two preceding calendar years.

Sec. 6. Section 96.19, subsection 29, Code 1981, is amended to read as follows:

29. There is a state "off" indicator for a week if, for the period consisting of the week and the immediately preceding twelve weeks, the rate of insured unemployment under the state law was less than ~~four~~ five percent, or less than one hundred twenty percent of the average of the rates for thirteen weeks ending in each of the two preceding calendar years, except that, notwithstanding any such provision of this subsection, any week for which there would otherwise be a state "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.

Sec. 7. Section 96.19, subsection 30, Code 1981, is amended to read as follows:

30. "Rate of insured unemployment", for purposes of determining state "on" indicator and state "off" indicator, means the percentage derived by dividing the average weekly number of individuals filing claims for regular benefits in Iowa for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the department on the basis of its reports to the United States secretary of labor, by the average monthly insured employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

Sec. 8. Section 96.29, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 19, sections 10 and 11, is amended to read as follows:

96.29 EXTENDED BENEFITS. Except when the result would be inconsistent with the other provisions of this chapter, as provided in ~~regulations~~ rules of the department, the provisions of the law which apply to claims for or the payment of regular benefits shall apply to claims for, and the payment of, extended benefits.

1. ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS. An individual ~~shall be~~ is eligible to receive extended benefits with respect to ~~any~~ a week of unemployment in ~~his or her~~ the individual's eligibility period only if the department finds that ~~with respect to such week~~ all of the following conditions are met:

a. ~~He or she~~ The individual is an "exhaustee" as defined in this chapter.

b. ~~He or she~~ The individual has satisfied the requirements of this chapter for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

c. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-half times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest.

2. DISQUALIFICATION FOR EXTENDED BENEFITS. ~~The disqualification provisions of this chapter applicable to regular benefits are applicable to extended benefits, except~~ If an individual claiming extended benefits furnishes satisfactory evidence to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, section 96.5, subsection 3 applies. If the department determines that an individual is claiming extended benefits and the individual's prospects for obtaining work in the individual's customary occupation are poor, the following paragraphs apply:

a. An individual shall be disqualified for extended benefits if the individual fails to apply for or refuses to accept an offer of suitable work to which the individual was referred by the department or the individual fails to actively seek work, unless the individual has been employed during at least four weeks, which need not be consecutive, subsequent to the disqualification and has earned at least four times the individual's weekly extended benefit amount. In order to be considered suitable work under this subsection, the gross weekly wage for the suitable work shall be in excess of the individual's weekly extended benefit amount plus any weekly supplemental unemployment compensation benefits which the individual is receiving.

b. An individual shall not be disqualified for extended benefits for failing to apply for or refusing to accept an offer of suitable work, unless the suitable work was offered to the individual in writing or was listed with the department.

~~2~~ 3. WEEKLY EXTENDED BENEFIT AMOUNT. The weekly extended benefit amount payable to an individual for a week of total unemployment in ~~his or her~~ the individual's eligibility period ~~shall be~~ is an amount equal to the weekly benefit amount payable to ~~him or her~~ the individual during ~~his or her~~ the individual's applicable benefit year.

~~3~~ 4. TOTAL EXTENDED BENEFIT AMOUNT. The total extended benefit amount payable to ~~any~~ an eligible individual with respect to ~~his or her~~ the individual's applicable benefit year ~~shall be~~ is the least of the following amounts.

a. Fifty percent of the total amount of regular benefits which were payable to ~~him or her~~ the individual under this chapter in ~~his or her~~ the individual's applicable benefit year.

b. Thirteen times ~~his or her~~ the individual's weekly benefit amount which was payable to ~~him or her~~ the individual under this chapter for a week of total unemployment in the applicable benefit year.

~~However, an eligible individual shall receive a maximum of two additional weeks of extended benefits if the individual moves from this state, before or during an extended benefit period triggered by this state's "on" indicator, to another state in which an extended benefit period is not in effect.~~ Except for the first two weeks of an interstate claim for extended benefits filed in any state under the interstate benefit payment plan and payable from an individual's extended benefit account, the individual is not eligible for extended benefits payable under the interstate claim if an extended benefit period is not in effect in that state.

~~4~~ 5. BEGINNING AND TERMINATION OF EXTENDED BENEFIT PERIOD. ~~Whenever~~ If an extended benefit period is to become effective in Iowa, ~~or in all states,~~ as a result of a the state ~~or a national~~ "on" indicator, or an extended benefit period is to be terminated in Iowa as a result of the state ~~and national~~ "off" ~~indicators~~ indicator, the department shall make an appropriate public announcement. Computations required by ~~the provisions of~~ this subsection shall be made by the department in accordance with regulations prescribed by the United States secretary of labor.

6. Notwithstanding any other provisions of this section, if the benefit year of an individual ends within an eligibility period for extended benefits, the remaining extended benefits which the individual would, but for this section, be entitled to receive in that portion of the eligibility period which extends beyond the end of the individual's benefit year, shall be reduced, but not below zero, by the number of weeks for which the individual received federal trade readjustment allowances, under 19 U.S.C. sec. 2101 et seq., as amended by the Omnibus Budget Reconciliation Act of 1981, within the individual's benefit year multiplied by the individual's weekly extended benefit amount.

Sec. 9. Sections 5 and 6 of this Act and that portion of section 8 of this Act which will be codified as section 96.29, subsection 1, paragraph c take effect September 26, 1982 and apply to weeks beginning on and after that date.

Approved March 11, 1982

CHAPTER 1031

IOWA HIGHER EDUCATION LOAN AUTHORITY—REVENUE BONDS

H.F. 2377

AN ACT creating the Iowa higher education loan authority, providing for the authority to issue revenue bonds and defining its powers and duties and providing that the Act takes effect upon its publication.

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

Section 1. NEW SECTION. SHORT TITLE AND CITATION. This Act may be cited as the "Iowa Higher Education Loan Authority Act".

Sec. 2. DECLARATION OF PURPOSE. It is declared that for the benefit of the people of the state of Iowa, the conduct and increase of their commerce, the protection and enhancement of their welfare, the development of continued prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and skills; that to achieve these ends it is of the utmost importance that students attending institutions of higher education located in Iowa have reasonable financial alternatives to enhance their access to such institutions; that reasonable financial access to institutions of higher education will assist youth in achieving the optimum levels of learning and development of their intellectual and mental capacities and skills; that it is the purpose of this Act to provide a measure of assistance and an alternative method to enable students and the families of students attending institutions of higher education located in Iowa to appropriately and prudently finance the cost or a portion of the cost of higher education; and that it is the intent of this Act to supplement federal guaranteed higher education loan programs, other student loan programs, and grant or scholarship programs to provide the needed additional options for the financing of a student's higher education in execution of the public policy set forth above.

Sec. 3. LEGISLATIVE FINDINGS. The general assembly finds as follows:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa, for the improvement of their education, health and welfare, and for the promotion of the economy, which are public purposes.

2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by this chapter.

3. There exists a serious problem in this state regarding the ability of students to obtain financing for the cost of education beyond the high school level.

4. Escalating costs of securing such an education have contributed to the difficulties faced by students in attempting to finance an education.

5. Without public action as contemplated by this Act, many students will be forced to postpone or abandon plans for obtaining additional education.

6. It is in the interests and welfare of the citizens of the state to provide a means for assisting students to continue their education.

7. Without public action as contemplated by this Act, the inability to obtain educational financing will result in declining enrollments at institutions of higher education.

8. It is necessary to create a higher education loan authority to encourage the investment of private capital in the provision of funds for the financing of student loans.

9. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned, or granted.

Sec. 4. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Authority" means the Iowa higher education loan authority created by this Act, and "members of the authority" means those persons appointed to the authority pursuant to section 6 of this Act.

2. "Authority loans" means loans by the authority to institutions of higher education for the purpose of funding education loans.

3. "Obligations" means bonds, notes, or other evidences of indebtedness of the authority, including interest coupons pertaining thereto, issued under this Act, including refunding bonds.

4. "Bond resolution" means a resolution of the authority and the trust agreement, if any, and any supplements or amendments to the resolution and agreement, authorizing the issuance of and providing for the terms and conditions applicable to obligations.

5. "Borrower" means a student who has received an education loan or a parent who has received or agreed to pay an education loan.

6. "Default insurance" means insurance insuring education loans, authority loans, or obligations against default.

7. "Default reserve fund" means a fund established pursuant to a bond resolution for the purpose of securing education loans, authority loans, or obligations.

8. "Cost of attendance" means the amount defined by the institution for the purpose of the guaranteed student loan program as defined under Title IV, part B, of the "Higher Education Act of 1965" as amended.

9. "Education loan" means a loan which is made by an institution to a student or parents of a student, or both, in amounts not in excess of the maximum amounts specified in rules adopted by the authority under chapter 17A to finance all or a portion of the cost of the student's attendance at the institution.

10. "Loan funding deposit" means money or other property deposited by an institution with the authority or a trustee for the purpose of one or more of the following:

a. Providing security for obligations.

b. Funding a default reserve fund.

c. Acquiring default insurance.

d. Defraying costs of the authority.

The moneys or properties shall be in amounts deemed necessary by the authority as a condition for the institution's participation in the authority's programs.

11. "Institution" means a nonprofit educational institution located in Iowa not owned or controlled by the state or any political subdivision, agency, instrumentality, district, or city of the state, which is authorized by law to provide a program of education beyond the high school level and which meets all of the following requirements:

a. Admits as regular students only individuals having a certificate of graduation from high school, or the recognized equivalent of such a certificate.

b. Provides an educational program for which it awards a baccalaureate degree; or provides an educational program which conditions admission upon the prior attainment of a baccalaureate degree or its equivalent, for which it awards a postgraduate degree; or provides not less than a two-year program which is acceptable for full credit toward a baccalaureate degree, or offers not less than a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semi-professional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

c. Is accredited by a nationally recognized accrediting agency or association or, if not accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are accredited.

d. Does not discriminate in the admission of students on the basis of age, race, creed, color, sex, national origin, religion, or disability.

e. Has a governing board which possesses its own sovereignty.

f. Has a governing board, or delegated institutional officials, which possess final authority in all matters of local control, including educational policy, choice of personnel, determination of program, and financial management.

12. "Parent" means a parent or guardian of a student at an institution.

13. "Education loan series portfolio" means all education loans made by a specific institution which are funded from the proceeds of an authority loan to the institution from the proceeds of a related specific issue of obligations through the authority.

14. "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid by the authority on obligations.

15. "Person" means a public or private person, firm, partnership, association, corporation or other body.

16. "Governmental agency" means the state or a state department, division, commission, institution, or authority, an agency, city, county, township, school district, and any other political subdivision or special district in this state established pursuant to law, and, except where otherwise indicated, also means the United States or a department, division, or agency of the United States, and an agency, commission, or authority established pursuant to an interstate compact or agreement.

Sec. 5. NEW SECTION. CREATION AS PUBLIC INSTRUMENTALITY. The Iowa higher education loan authority is created as a body politic and corporate. The authority is a public instrumentality and the exercise by the authority of the powers conferred by this Act is the performance of an essential public function.

Sec. 6. NEW SECTION. MEMBERSHIP OF AUTHORITY.

1. The authority consists of five members to be appointed by the governor subject to confirmation by the senate. The powers of the authority are vested in and exercised by the members of the authority. Each member of the authority shall be a resident of the state and not more than three members shall be members of the same political party.

2. The members of the authority shall be appointed by the governor for terms of six years beginning and ending as provided in section 69.19. A member of the authority is eligible for reappointment. The governor shall fill a vacancy for the remainder of the unexpired term. A member of the authority may be removed by the governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless the notice and hearing are waived by the member in writing.

3. The members of the authority shall annually elect one of the members as chairperson and one as vice chairperson. The members of the authority may appoint an executive director, an assistant executive director, and other officers as the members of the authority determine. The officers shall not be members of the authority, shall serve at the pleasure of the authority, and shall receive compensation as fixed by the authority.

4. The executive director or assistant executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director, assistant executive director, or other person may cause copies to be made of minutes and other records and documents of

the authority and may give certificates under the official seal of the authority that the copies are true copies, and persons dealing with the authority may rely upon the certificates.

5. Three members of the authority constitute a quorum. The affirmative vote of a majority of the members of the authority is necessary for any action taken by the authority. The majority shall not include a member who has a conflict of interest and a statement by a member of a conflict of interest is conclusive for this purpose. A vacancy in the membership of the authority does not impair the right of a quorum to exercise the rights and perform the duties of the authority. An action taken by the authority under this Act may be authorized by resolution at a regular or special meeting, and each resolution shall take effect immediately and need not be published or posted, except as provided in section 25 of this Act. Meetings of the authority shall be held at the call of the chairperson or at the request of two members.

6. The members of the authority shall not receive compensation for the performance of their duties as members but each member shall be paid necessary expenses while engaged in the performance of duties of the authority.

7. The members of the authority shall give bond as required for public officers in chapter 64.

8. The members of the authority are subject to and are officials within the meaning of chapter 68B.

9. Notwithstanding chapter 68B or any other laws to the contrary, it is not a conflict of interest or violation of a law for a trustee, director, officer, or employee of a participating institution or for a person having a favorable reputation for skill, knowledge, and experience in state and municipal finance or for a person having a favorable reputation for skill, knowledge, and experience in the higher education loan finance field to serve as a member of the authority. However, in each case to which this Act is applicable, the trustee, director, officer, or employee of the participating institution shall abstain from discussion, deliberation, action, and vote by the authority in respect to an undertaking pursuant to this Act in which the participating institution of higher education has an interest; and the person having a favorable reputation for skill, knowledge, and experience in state and municipal finance shall abstain from discussion, deliberation, action, and vote by the authority in respect to a sale, purchase, or ownership of obligations of the authority in which an investment banking firm or insurance company or bank of which the person is a partner, officer, or employee has or may have a current or future interest; and the person having a favorable reputation for skill, knowledge, and experience in the higher education loan finance field shall abstain from discussion, deliberation, action, and vote by the authority in respect to an action of the authority in which a partnership, firm, joint venture, sole proprietorship, or corporation of which the person is an owner, venturer, participant, partner, officer, or employee has or may have a current or future interest.

Sec. 7. NEW SECTION. DUTIES OF AUTHORITY. The authority shall:

1. Adopt rules for the regulation of its affairs and the conduct of its business.

2. Adopt an official seal and alter the seal at pleasure.

3. Maintain an office at a place or places it designates.

4. Establish criteria for and guidelines encompassing the types of and qualifications for education loan financing programs. The authority may issue obligations for the purpose of making authority loans to institutions participating in a program of the authority for the purpose of providing education loans. The criteria and guidelines established by the authority for its education loan financing programs include eligibility standards for borrowers the authority determines are necessary or desirable in order to effectuate the purposes of this Act, including the following:

a. Each student shall have a certificate of admission or enrollment at a specific participating institution.

b. Each student or the student's parents shall satisfy financial qualifications the authority establishes to effectuate the purposes of this Act.

c. Each student and the student's parents shall submit information required by the authority to the applicable institution.

The authority may contract with financial institutions and other qualified loan origination and servicing organizations, which shall assist in prequalifying borrowers for education loans and which shall service and administer each education loan and each institution's respective loan series portfolio. Each education loan's fees shall include a portion, if necessary, to cover the applicable pro rata cost of a servicing organization.

The authority may establish criteria governing the eligibility of institutions to participate in its programs, the making of authority loans and education loans, provisions for default, the establishment of default reserve funds, the purchase of default insurance, the provision of prudent debt service reserves, and the furnishing by participating institutions of higher education of additional guarantees of the education loans, authority loans, or obligations that the authority determines necessary. Criteria shall be established to assure the marketability of the obligations and the adequacy of the security for the obligations.

The authority shall establish limitations upon the principal amounts and the terms of education loans, criteria regarding the qualifications and characteristics of borrowers and procedures for allocating authority loans among institutions eligible for its program in order to effectuate the purposes of this Act.

5. Issue obligations for its corporate purposes and fund or refund the obligations as provided in this Act.

6. Fix and revise from time to time and charge and collect rates, fees, and charges for the services furnished or to be furnished by the authority, and contract with persons in respect to the services, including financial institutions, loan originators, servicers, administrators, issuers of letters of credit, and insurers.

7. Establish rules under chapter 17A with respect to authority loans, education loans, and education loan series portfolios.

8. Receive and accept from any source, loans, contributions or grants for or in aid of an authority education loan financing program or any portion of a program and, when required, use the funds, property, or labor only for the purposes for which it was loaned, contributed, or granted.

9. Make authority loans to institutions and require that the proceeds of the authority loans be used for making education loans and paying costs and fees in connection with the education loans.

10. Charge to and apportion among participating institutions its administrative and operating costs and expenses incurred in the exercise of its powers and duties.

11. Borrow working capital funds and other funds as necessary for start-up and continuing operations, provided that the funds are borrowed in the name of the authority only. Borrowings are limited obligations of the character described in section 12 of this Act and are payable solely from revenues of the authority or the proceeds of obligations pledged for that purpose.

12. Notwithstanding other provisions in this Act, commingle and pledge as security for a series or issue of obligations, with the consent of all of the institutions which are participating in the series or issue, the education loan series portfolios and some or all future education loan series portfolios of the institutions, and the loan funding deposits of the institutions. However, the education loan series portfolios and other security and moneys set aside in a fund or funds pledged for a series or issue of obligations shall be held for the sole benefit of the series or issue separate and apart from education loan series portfolios and other security and moneys pledged for any other series or issue of obligations. Obligations

may be issued in series under one or more resolutions or trust agreements in the discretion of the authority.

13. Examine records and financial reports of participating institutions, and examine records and financial reports of a contractor organization or institution retained by the authority.

14. Require that authority loans be used solely to make education loans. The authority shall require that institutions require that each borrower under an education loan use the proceeds solely for the cost of attendance and that each borrower certify as to the use of the proceeds.

15. Authorize its officers, agents, and employees to take any other action and do all things necessary or desirable in order to carry out the purposes of this Act.

Sec. 8. NEW SECTION. POWERS OF AUTHORITY. The authority may:

1. Sue and be sued in its own name, plead and be impleaded.

2. Employ consultants, attorneys, accountants, financial experts, loan processors, bankers, managers, and other employees and agents necessary in the authority's judgment, and fix their compensation.

3. When refunding obligations are issued to refund obligations, the proceeds of which were used to make authority loans, reduce the amount it is owed by the institutions which had received authority loans from the proceeds of the refunded obligations. The institutions may use this reduced amount to reduce the amount of interest being paid on education loans which the institutions had made pursuant to the authority loans from the proceeds of the refunded obligations.

Sec. 9. NEW SECTION. EXPENSES OF AUTHORITY—LIMITATION OF LIABILITY. Expenses incurred in carrying out this Act are payable solely from funds provided under this Act and, except as specifically authorized under this Act, a liability shall not be incurred by the authority beyond the extent to which moneys have been provided under this Act.

Sec. 10. NEW SECTION. ACQUISITION OF MONEYS, ENDOWMENTS, AND PROPERTIES AND GUARANTEES. The authority may establish guidelines relating to the deposits of moneys, endowments, or properties by institutions which would provide prudent security for education loan funding programs, authority loans, education loans, or for obligations and may establish guidelines relating to guarantees of or contracts to purchase education loans or obligations by the institutions or by financial institutions or others. A default reserve fund may be established for each series or issue of obligations. The authority may receive moneys, endowments, properties, and guarantees it deems appropriate and, if necessary, may take title in the name of the authority or in the name of a participating institution or a trustee.

Sec. 11. NEW SECTION. CONVEYANCE OF LOAN FUNDING DEPOSIT AFTER PAYMENT OF PRINCIPAL AND INTEREST. When the principal of and interest on obligations of the authority issued to finance the cost of an education loan financing program or programs, including any refunding obligations issued to refund and refinance the obligations, have been fully paid and retired or when adequate provision has been made to fully pay and retire the obligations of the authority, and all other conditions of the bond resolution have been satisfied and the lien created by the bond resolution has been released in accordance with its provisions, the authority shall promptly perform functions and execute deeds and conveyances necessary and required to convey remaining moneys, properties, and other assets comprising loan funding deposits to the institutions which furnished the loan funding deposits in proportion to the amounts furnished by the respective institutions.

Sec. 12. NEW SECTION. OBLIGATIONS.

1. The authority may from time to time issue obligations for any corporate purpose and the

obligations of the authority are declared to be negotiable for all purposes notwithstanding their payment from limited sources and without regard to any other law.

2. The authority shall not have outstanding at any one time obligations in an aggregate principal amount exceeding one hundred million dollars excluding obligations issued to refund the obligations of the authority.

3. Each issue of obligations is payable solely out of revenues of the authority pertaining to the program relating to the issue, including principal and interest on authority loans and education loans; payments by institutions of higher education, banks, insurance companies, or others pursuant to letters of credit or purchase agreements; investment earnings from funds or accounts maintained pursuant to the bond resolution; insurance proceeds; loan funding deposits; proceeds of sales of education loans; proceeds of refunding obligations; and fees, charges, and other revenues of the authority from the program.

4. Obligations may be issued as serial obligations or as term obligations, or both. Obligations shall be authorized by a bond resolution of the authority and shall bear dates, mature at times not later than the year following the last year in which the final payments in an education loan series portfolio are due, or thirty years, whichever is sooner, from their respective dates of issue, bear interest at rates, be payable at times, be in denominations, be in a form, either coupon or fully registered, carry registration and conversion privileges, be payable in lawful money of the United States of America, and be subject to terms of redemption as the bond resolution provides. Obligations shall be executed by the manual or facsimile signatures of officers of the authority designated by the authority. Obligations shall be sold in a manner and at prices as the authority determines.

5. A bond resolution may contain provisions, which shall be a part of the contract with the holders of the obligations to be authorized, as to all of the following:

a. Pledging or assigning the revenues derived from the authority loans and education loans with respect to which the obligations are to be issued.

b. The fees and other amounts to be charged, and the sums to be raised in each year, and the use, investment, and disposition of the sums.

c. The setting aside of loan funding deposits, debt service reserves, capitalized interest accounts, cost of insurance accounts, and sinking funds, and their regulation, investment, and disposition.

d. Limitations on the use of the education loans.

e. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of obligations then or thereafter to be issued may be applied.

f. Limitations on the issuance of additional obligations, the terms upon which additional obligations may be issued and secured, the terms upon which additional obligations may rank on a parity with, or be subordinate or superior to, other obligations.

g. The refunding of outstanding obligations.

h. The procedure, if any, by which the terms of a contract with holders of obligations may be amended or abrogated, the amount of obligations to which the holders must consent to the amendment or abrogation, and the manner in which the consent may be given.

i. Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of obligations and providing the rights or remedies of holders in the event of a default.

j. Providing for guarantees, pledges, endowments, letters of credit, property, or other security for the benefit of the holders of the obligations.

k. Any other matters relating to the obligations which the authority deems desirable.

6. Neither the members of the authority nor a person executing the obligations is liable personally on the obligations or subject to personal liability or accountability by reason of their issuance.

7. The authority may purchase its obligations out of funds available. The authority may hold, pledge, cancel, or resell obligations subject to and in accordance with agreements with holders of obligations.

8. The authority may refund any of its obligations. Refunding obligations shall be issued in the same manner as other obligations of the authority.

Sec. 13. NEW SECTION. TRUST AGREEMENT TO SECURE OBLIGATIONS. In the discretion of the authority, obligations may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be a trust company or bank located in the state of Iowa that has the powers of a trust company. The bond resolution shall pledge the revenues to be received by the authority, may contain provisions for protecting and enforcing the rights and remedies of the holders of obligations as reasonable and proper and not in violation of law, including provisions that have been authorized to be included in any bond resolution of the authority, and may restrict the individual right of action by holders of obligations. A trust agreement may contain other provisions the authority deems reasonable and proper for the security of the holders of obligations. Expenses incurred in carrying out the trust agreement may be treated as a part of the cost of the operation of an education loan program.

Sec. 14. NEW SECTION. PAYMENT OF OBLIGATIONS—NONLIABILITY OF STATE. Obligations are obligations of the authority only, and not of the state of Iowa. Each obligation shall state upon its face that it represents and constitutes a debt of the authority, but not of the state of Iowa within the meaning of any constitutional or statutory limitation, and that it does not constitute a pledge of the full faith and credit of the authority or of the state of Iowa. The obligations shall not grant to the owners or holders of the obligations the right to have the authority or the state levy taxes or appropriate funds for the payment of the principal or interest on the obligations. The obligations are payable, and shall state that they are payable, solely from the revenues pledged for their payment in accordance with the bond resolution.

This Act does not authorize the authority or any department, board, commission, or other agency to create an obligation of the state within the meaning of the constitution or laws of Iowa.

Sec. 15. NEW SECTION. PLEDGE OF REVENUES. The authority shall fix, revise, charge, and collect fees and may contract with a person to do so. Each agreement entered into by the authority with an institution shall provide that the fees and other amounts payable by the institution of higher education with respect to a program of the authority are sufficient at all times to meet all of the following:

1. To pay its share of the administrative costs and expenses of the program.

2. To pay the principal of, the premium, if any, and the interest on outstanding obligations of the authority, issued in respect of the program to the extent that other revenues of the authority pledged for the payment of the obligations are insufficient to pay the obligations as they become due and payable.

3. To create and maintain reserves which may but need not be required or provided for in the bond resolution relating to the obligations of the authority.

4. To establish and maintain whatever education loan servicing, control, or audit procedures are deemed by the authority to be necessary to the prudent operation of the authority.

The authority shall pledge the revenues from each program as security for the issue of obligations relating to the program. A pledge is valid and binding from the time when the pledge is made, the revenues pledged by the authority are immediately subject to the lien of

the pledge without physical delivery of the pledge or further act, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority or a participating institution, irrespective of whether the parties have notice of the lien. The bond resolution and a financing statement, continuation statement, or other instrument by which the authority's interest in revenues is assigned need not be filed or recorded in public records in order to perfect the lien against third parties except that a copy of it shall be filed in the records of the authority and with the treasurer of state.

Sec. 16. NEW SECTION. FUNDS FOR SALES OF OBLIGATIONS AS TRUST FUNDS—APPLICATION OF FUNDS. Moneys received by or on behalf of the authority under this Act, whether as proceeds from the sale of obligations or as revenues, are trust funds to be held and applied as provided in this Act. An officer with whom, or a bank or trust company with which the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes of this Act, subject to rules that this Act and the bond resolution authorizing the obligations of an issue may provide.

Sec. 17. NEW SECTION. RIGHTS OF HOLDERS OF OBLIGATIONS. A holder of obligations or a trustee under a trust agreement entered into pursuant to this Act, except to the extent that their rights are restricted by a bond resolution, may, by any suitable form of legal proceedings, protect and enforce rights under the laws of this state or granted by the bond resolution, may enjoin unlawful activities, and if there is a default on the payment of the principal of, premiums, if any, and interest on an obligation or in the performance of a covenant or agreement on the part of the authority in the bond resolution, may apply to the district court to appoint a receiver to administer and operate the education loan program, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on the obligations, with full power to pay, and to provide for payment of principal of, premium, if any, and interest on the obligations, and with powers, subject to the direction of the court, as permitted by law and accorded to receivers, excluding the power to pledge additional revenues of the authority to the payment of the principal, premium, and interest.

Sec. 18. NEW SECTION. REFUNDING BONDS—PURPOSE—PROCEEDS—INVESTMENT OF PROCEEDS.

1. The authority may issue its obligations for the purpose of refunding obligations then outstanding, including the payment of a redemption premium on the obligations and interest accrued or to accrue to the earliest or a subsequent date of redemption, purchase, or maturity of the obligations.

2. The proceeds of obligations issued for the purpose of refunding outstanding obligations may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of the outstanding obligations either on their earliest or a subsequent redemption date or upon the purchase or at the maturity of the obligations and may, pending an application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date determined by the authority.

3. Any escrowed proceeds, pending their use, may be invested and reinvested in direct obligations of the United States of America, maturing at times as appropriate to assure the prompt payment of the principal of and interest and redemption premium, if any, on the outstanding obligations to be refunded. The interest, income, and profits, if any, earned or realized on an investment may also be applied to the payment of the outstanding obligations to be refunded. After the terms of the escrow have been fully satisfied and carried out, a balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments shall be returned to the institution of higher education for use by it in any lawful manner.

4. Refunding obligations are subject to this Act in the same manner and to the same extent as other obligations issued pursuant to this Act.

Sec. 19. NEW SECTION. INVESTMENT OF FUNDS OF AUTHORITY. Except as otherwise provided in section 18, subsection 3, of this Act, the authority may invest funds in direct obligations of the United States of America; obligations for which the timely payment of principal and interest is fully guaranteed by the United States of America; obligations of the federal intermediate credit banks, federal banks for cooperatives, federal land banks, federal home loan banks, federal national mortgage association, government national mortgage association and the student loan marketing association; certificates of deposit or time deposits constituting direct obligations of a bank as defined by chapter 524; and in withdrawable capital accounts or deposits of state or federal chartered savings and loan associations which are insured by the federal savings and loan insurance corporation. However, investments may be made only in certificates of deposit or time deposits in banks which are insured by the federal deposit insurance corporation if then in existence. Securities authorized in this section may be purchased at the offering or market price at the time of the purchase. The securities purchased shall mature or be redeemable on dates prior to the time when, in the judgment of the authority, the funds invested will be required for expenditure. The judgment of the authority as to the time when funds will be required for expenditure or be redeemable is final.

Sec. 20. NEW SECTION. OBLIGATIONS AS LEGAL INVESTMENTS. Banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking or investment business, insurance companies and insurance associations, and executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, moneys, or other funds belonging to them or within their control in obligations of the authority.

Sec. 21. NEW SECTION. ANNUAL REPORT. The authority shall keep an accurate account of its activities and shall annually provide a report of its activities to the governor and the members of the general assembly. The report is a public record and open for inspection at the offices of the authority during normal business hours. The report shall include all of the following:

1. Summaries of applications by institutions of higher education for education loan financing assistance presented to the authority during the fiscal year.

2. Summaries of education loan programs which have received any form of financial assistance from the authority during the year.

3. The nature and amount of all assistance.

4. A report concerning the financial condition of the various education loan series portfolios.

5. Projected activities of the authority for the next fiscal year, including projections of the total amount of financial assistance anticipated and the amount of obligations that will be necessary to provide the projected level of assistance during the next fiscal year.

Sec. 22. NEW SECTION. WAIVER OF COMPETITIVE BIDDING. Competitive bidding requirements of the Code or other similar requirements that may be lawfully waived are waived by this section and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts is not applicable to action taken under this Act.

Sec. 23. NEW SECTION. INSTITUTION POWER—INTEREST RATES. Institutions may borrow money from the authority, make education loans and take all other actions and do things necessary or convenient to consummate the transactions contemplated under this Act. It is lawful for the authority to establish, charge, contract for, and receive any amount or rate of interest or compensation with respect to authority loans and, subject to rules adopted by the authority, for participating institutions to charge, contract for, and receive any amount or rate of interest or compensation with respect to education loans.

Sec. 24. NEW SECTION. ACT AS ALTERNATIVE METHOD—POWERS NOT SUBJECT TO SUPERVISION OR REGULATION. Sections 1 through 23 of this Act provide a complete, additional, and alternative method for the doing of the things authorized by the Act and the limitations imposed by this Act do not affect powers or rights conferred by other laws, and the issuance of obligations and refunding obligations under this Act need not comply with the requirements of any other law applicable to the issuance of obligations. Except as otherwise expressly provided in this Act, the powers granted to the authority under this Act are not subject to the supervision or regulation and do not require the approval or consent of a city or political subdivision or department, division, commission, board, body, bureau, official, or agency of a political subdivision or of the state.

Sec. 25. NEW SECTION. NOTICE. The authority shall publish a notice of its intention to issue obligations in a newspaper published in and with general circulation in the state. The notice shall include a statement of the maximum amount of obligations proposed to be issued, and in general terms, what receipts will be pledged to pay bond service charges on the obligations. An action which questions the legality or validity of the obligations or the power of the authority to issue the obligations or the effectiveness or validity of any proceedings adopted for the authorization or issuance of the obligations shall not be brought after sixty days from the date of publication of the notice.

Sec. 26. NEW SECTION. LIBERAL CONSTRUCTION OF ACT. This Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purpose.

Sec. 27. NEW SECTION. EXERCISE OF POWERS AS ESSENTIAL PUBLIC FUNCTION—EXEMPTION FROM TAXATION. The exercise of the powers granted by this Act will be in all respects for the benefit of the people of this state, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of a program by the authority or its agent will constitute the performance of an essential public function. Income of the authority is exempt from all taxation in the state. Property of the authority, acquired or held for purposes of this Act, is exempt from all taxation and special assessments in the state if the property was exempt for the fiscal year in which the property was first acquired or held and such property shall continue to be exempt for subsequent fiscal years. Property of the authority, acquired or held for purposes of this Act, is subject to taxation and special assessments in the state if the property was taxable for the fiscal year in which the property was first acquired or held and such property shall continue to be taxable for subsequent fiscal years.

Sec. 28. For the initial members of the authority, the terms of office shall commence on the effective date of this Act, or as soon thereafter as possible, and shall be staggered so that one expires on April 30, 1984, one on April 30, 1985, one on April 30, 1986, one on April 30, 1987, and one on April 30, 1988.

Sec. 29. This Act, being deemed of immediate importance, takes effect from and after its publication in the Grinnell Herald-Register, a newspaper published in Grinnell, Iowa, and in the Cherokee Daily Times, a newspaper published in Cherokee, Iowa.

Approved March 24, 1982

I hereby certify that the foregoing Act, House File 2377 was published in the Grinnell Herald-Register, Grinnell, Iowa on April 15, 1982 and in the Cherokee Daily Times, Cherokee, Iowa, on April 15, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1032

SPECIAL MOBILE EQUIPMENT REGISTRATION PLATES

S.F. 2183

AN ACT relating to vehicle registration by allowing the issuance of special mobile equipment plates for a period of three years and abolishing the use of gross weight emblems and providing a December 1, 1983 effective date.

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

Section 1. Section 321.21, subsections 3 and 4, Code 1981, are amended to read as follows:

3. The department shall also issue special mobile equipment plates as applied for, which shall have displayed ~~thereon~~ the general distinguishing number assigned to the applicant. Each plate or pair of plates ~~so~~ issued shall have displayed ~~thereon~~ on the face of the plate the words: Special Mobile Equipment. The fee for each plate or pair of special plates ~~shall be five~~ is fifteen dollars.

4. Every special mobile equipment plate issued ~~hereunder~~ shall expire at midnight on the thirty-first day of December of ~~each~~ the third year following issuance, and a new plate or plates for the ensuing three year period may be obtained by the person to whom any ~~such~~ expired plate ~~or plates~~ was issued upon application to the department and payment of the fee required by law.

Sec. 2. Section 321.34, subsection 2, Code 1981, is amended by striking the subsection.

Sec. 3. Section 321.166, subsections 1 and 4, Code 1981, are amended to read as follows:

1. Registration plates shall be of metal and of a size not to exceed six inches by twelve inches, except that the size of plates issued for use on motorized bicycles ~~and~~, motorcycles, and special mobile equipment shall be established by the department.

4. The registration plate number, except on motorized bicycle ~~and~~, motorcycle, and special mobile equipment registration plates, shall be of sufficient size to be readable from a distance of one hundred feet during daylight.

Sec. 4. This Act takes effect December 1, 1983.

Approved March 25, 1982

CHAPTER 1033

AUDIT AND CERTIFICATION OF CLAIMS FOR THE PERSONAL PROPERTY TAX CREDIT

H.F. 469

AN ACT relating to the audit and certification of claims for the personal property tax credit.

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

Section 1. Section 427A.6, Code 1981, is amended to read as follows:

427A.6 LISTING BY AUDITOR. On or before July 1 of each year, the auditor of each county shall prepare a statement listing for each taxing district in the county all personal property upon which taxes shall not be collected due to the tax credit granted in this chapter. The statement shall show the tax rates of the various taxing districts and the total amount of taxes which shall not be collected in each district because of the tax credit. The auditor shall certify and forward one copy ~~each~~ of the statement to the state comptroller ~~and to the department of revenue~~ on or before July 15 of ~~such~~ each year. The department of revenue shall have the responsibility of auditing credits allowed in all counties in the state and the assessed values and assessment practices which affect the amounts of credits and ~~such~~ the audit shall be completed within twenty-four months from July 1 of the year the claims were filed. A copy of the audit containing disallowed credits shall be sent to the county auditor, the county treasurer and state comptroller, and ~~such~~ the individuals shall be directed to correct their books and records accordingly. A written notice of a disallowance shall be mailed by ordinary mail to the claimant at the claimant's last known address. The amount of ~~such~~ any erroneous credit shall be charged to the county by the state comptroller. The director of revenue shall ~~be authorized and directed to~~ disallow any claim where the audit or investigation revealed that the claimant was not entitled to the credit claimed. Persons and business enterprises may appeal any disallowed personal property credit to the state board of tax review.

Approved March 25, 1982

CHAPTER 1034

ASSESSORS' ANNUAL REPORTS OF EXEMPT PROPERTY
TO THE DEPARTMENT OF REVENUE
H.F. 505

AN ACT to remove the requirement that assessors itemize individual names and legal descriptions in their annual reports of exempt property to the department of revenue.

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

Section 1. Section 427.1, subsection 31, Code 1981, is amended to read as follows:

31. ASSESSED VALUE OF EXEMPT PROPERTY. Each county and city assessor shall determine the assessment value that would be assigned to the property if it were taxable and value all tax exempt property within ~~his~~ the assessor's jurisdiction. ~~The list of tax exempt property shall contain a legal description of the tax exempt property and the name of the owner of the tax exempt property, the market value of the tax exempt property, and the assessed value of the tax exempt property. The list~~ A summary report of tax exempt property shall be filed with the director of revenue and the local board of review on or before April 16 of each year on forms prescribed by the director of revenue.

Approved March 25, 1982

CHAPTER 1035

HUNTER SAFETY AND ETHICS EDUCATION PROGRAM
H.F. 772

AN ACT establishing a hunter safety and ethics education program and subjecting violators to a penalty, to be effective July 1, 1983.

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

Section 1. Chapter 110, Code 1981, is amended by adding the following new section:

NEW SECTION. HUNTER SAFETY AND ETHICS EDUCATION PROGRAM—REQUIREMENT FOR LICENSE.

1. A hunting license shall not be issued to a person born after January 1, 1967 by the commission, a county recorder, or a depositary authorized to issue hunting licenses, unless the person exhibits a certificate showing satisfactory completion of a hunter safety and ethics education course approved by the commission. A certificate of completion from an approved hunter safety education course shall not be issued to any person under twelve years of age. A

certificate of completion from an approved hunter safety and ethics education course issued in this state since 1960, by another state, or by a province of Canada is valid for the requirements of this section, provided the applicant is twelve years of age or older.

2. A certificate of completion shall not be issued to a person who has not satisfactorily completed a minimum of eight hours of training in an approved hunter safety and ethics education course. The commission shall establish the curriculum for the first eight hours of an approved hunter safety and ethics education course offered in this state. Upon completion of the eight-hour curriculum, a certificate of completion shall be awarded to the applicant. An examination shall not be required for the award of the certificate.

3. The commission shall provide a manual on hunter safety education which shall be used by all instructors and persons receiving hunter safety and ethics education training in this state.

4. The commission shall provide for the certification of persons who wish to become hunter safety and ethics instructors. A person shall not act as an instructor in hunter safety and ethics education as provided in this section without first obtaining an instructor's certificate from the commission.

5. An officer of the commission or a certified instructor may issue a certificate to a person who has not completed the hunter safety and ethics education course but has demonstrated to that officer or instructor a satisfactory knowledge of hunter safety and ethics.

6. A public or private school or organization approved by the commission may cooperate with the commission in providing a course in hunter safety and ethics education as provided in this section.

7. A hunting license obtained under this section by a person who gave false information or presented a fraudulent certificate of completion shall be revoked and a new hunting license shall not be issued for at least two years from the date of conviction.

8. The state conservation commission shall adopt rules in accordance with chapter 17A as necessary to carry out the administration of this section.

Sec. 2. This Act takes effect July 1, 1983.

Approved March 25, 1982

CHAPTER 1036

CITY OF ROLFE LEGALIZING ACT

H.F. 2003

AN ACT to legalize the sale of certain property in Rolfe, Pocahontas county, Iowa.

WHEREAS, the following is part of the minutes of the town council of the incorporated town of Rolfe, Iowa, on March 14, 1955, "Having had the approval of the Library Board motion was made by Wickre, seconded by Cox that the council sell the East 40 feet of Lot sixteen (16) of Block eight (8) of the original plat of Rolfe, Iowa to Dr. Ranney for $50. and he to assume the expense of removal of the oil tank west of the library building and also pay the cost of abstract of title. Motion carried"; and

WHEREAS, a warranty deed dated May 5, 1955, acknowledged May 6, 1955, from the incorporated town of Rolfe, Iowa, to R. B. Ranney was recorded on November 12, 1955, in the office

of the county recorder of Pocahontas county, Iowa, in village deed record book 5 at page 46, to the following described real property: The east forty (40) feet of lot no. sixteen (16) in block eight (8) as said lot and block appear in the original plat of the incorporated town of Rolfe, Iowa; and

WHEREAS, no notice of the proposal to dispose of said real property was given; NOW, THEREFORE,

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

Section 1. That all proceedings taken by the town council of the incorporated town of Rolfe, Iowa, in the sale of property on March 14, 1955, are validated, legalized and confirmed and shall constitute a valid, legal and binding sale; and the warranty deed dated May 5, 1955, acknowledged May 6, 1955, from the incorporated town of Rolfe, Iowa, to R. B. Ranney, which was recorded on November 12, 1955, in the office of the county recorder of Pocahontas county, Iowa, in village deed record book 5 at page 46, is validated, legalized and confirmed and shall constitute a valid, legal and binding deed.

Approved March 25, 1982

CHAPTER 1037

SPECIAL TURKEY HUNTING LICENSE

H.F. 2027

AN ACT to provide for a special turkey hunting license for landowners and tenants of farm units and their family members.

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

Section 1. Section 109.38, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. The commission shall issue a special turkey hunting license to either the owner or the tenant of a farm unit or a member of the owner's or tenant's immediate family if the person makes a written application to the commission and pays the fee provided for the regular turkey hunting license. The special license is valid only for hunting on the farm unit of the owner or tenant. Only one special license may be issued for a farm unit. The application must contain the consent of the owner if the tenant or tenant's family member applies for the license. A person purchasing a regular turkey hunting license is not eligible to purchase a special license under this subsection. Applications for the special turkey licenses must be received by the commission at least thirty days prior to the opening of the turkey hunting season. The special turkey hunting licensees are subject to all other laws regarding the hunting of turkeys.

Approved March 25, 1982

CHAPTER 1038

ACCOUNTANT'S FAILURE TO RENEW A LICENSE

H.F. 2067

AN ACT to change the procedures relating to failure to renew a license issued by the board of accountancy.

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

Section 1. Section 116.20, subsection 1, Code 1981, is amended to read as follows:

1. The certificate of certified public accountant granted by the board under section 116.5 and the registration with the board as a public accountant under section 116.6, and the license to practice as an accounting practitioner under section 116.7 or 116.8 shall be renewed as determined by the board. There shall be a renewal fee, in the amount to be determined from time to time by the board. The board shall give notice by restricted certified mail, return receipt requested, to the holder of a certificate, registration, or license who has failed to renew it. If the holder fails to renew the certificate, registration, or license within thirty days of receipt of the notice, the certificate, registration, or license lapses and is void.

Sec. 2. Section 116.21, subsection 10, Code 1981, is amended by striking the subsection.

Approved March 25, 1982

CHAPTER 1039

ORGANIZATIONAL MEETING OF BOARD OF MERGED AREA

H.F. 2147

AN ACT changing the date for the organizational meeting of the board of directors of a merged area.

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

Section 1. Section 280A.13, Code 1981, is amended to read as follows:

280A.13 DIRECTORS OF MERGED AREA. In each merged area, the initial board of directors elected at the special election shall organize within fifteen days following the election and may thereafter proceed with the establishment of the designated area vocational school or area community college. The board of directors of the merged area shall ~~thereafter~~ organize ~~on~~ at the first ~~Monday~~ regular meeting in October of each year. Organization of the board shall be effected by the election of a president and ~~such~~ other officers from the board membership as board members ~~so~~ determine. The board of directors shall appoint a secretary

and a treasurer who shall each give bond as prescribed in section 291.2 and who shall each receive ~~such~~ a salary as ~~shall be~~ determined by the board. The secretary and treasurer shall perform ~~such~~ duties ~~as are prescribed in~~ under chapter 291 and ~~such~~ additional duties as the board of directors ~~may deem~~ deems necessary. The frequency of meetings other than organizational meetings shall be as determined by the board of directors but the president or a majority of the members may call a special meeting at any time.

Approved March 25, 1982

CHAPTER 1040

TEMPORARY CERTIFICATE TO PRACTICE PODIATRY

H.F. 2348

AN ACT to permit the board of podiatry examiners to issue a temporary certificate to practice podiatry.

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

Section 1. Chapter 149, Code 1981, is amended by adding the following new section:

NEW SECTION. TEMPORARY CERTIFICATE. The podiatry examiners may issue a temporary certificate to an academic staff member of a podiatry school in this state authorizing the licensee to practice podiatry if the podiatry examiners determine that a need exists and the person possesses the qualifications prescribed by the podiatry examiners for the certificate, which shall be substantially equivalent to those required for licensure under this chapter. The podiatry examiners shall determine eligibility for the certificate, whether or not examinations shall be given, and the type of examinations. The requirements of the law pertaining to regular permanent licensure shall not be mandatory for this temporary certificate except as specifically designated by the podiatry examiners. The granting of a temporary certificate does not in any way indicate that the person licensed is necessarily eligible for regular licensure, and the podiatry examiners are not obligated to license the person.

The temporary certificate shall be issued for one year and may be renewed, but a person shall not be entitled to practice podiatry in excess of three years while holding a temporary certificate. The fee for this certificate shall be set by the podiatry examiners and if extended beyond one year a renewal fee per year shall be set by the podiatry examiners. The fees shall be based on the administrative costs of issuing and renewing the certificates. The podiatry examiners may cancel a temporary certificate at any time, without a hearing, for reasons deemed sufficient to the podiatry examiners.

When the podiatry examiners cancel a temporary certificate, they shall promptly notify the licensee by registered United States mail, at the licensee's last-named address, which is reflected in the files of the podiatry examiners, and the temporary certificate shall become terminated and of no further force and effect three days after the giving of the notice to the licensee.

A temporary certificate issued under this section to an academic staff member of a podiatry school in this state shall automatically expire when the special licensee terminates affiliation with the school.

Approved March 25, 1982

CHAPTER 1041

GOLF CART OPERATION ON CITY STREETS

S.F. 487

AN ACT allowing the operation of golf carts on the streets of cities.

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

Section 1. Chapter 321, Code 1981, is amended by adding the following new section:

NEW SECTION. GOLF CART OPERATION ON CITY STREETS. Incorporated areas may, upon approval of their governing body, allow the operation of golf carts on city streets by persons possessing a valid operator's license. However, a golf cart shall not be operated upon a city street which is a primary road extension through the city but shall be allowed to cross a city street which is a primary road extension through the city. The golf carts shall be equipped with a slow moving vehicle sign and a bicycle safety flag and operate on the streets only from sunrise to sunset. Golf carts operated on city streets shall be equipped with adequate brakes and shall meet any other safety requirements imposed by the governing body. Golf carts are not subject to registration provisions of this chapter.

Approved March 25, 1982

CHAPTER 1042

IOWA CODE OF MILITARY JUSTICE REVISION

S.F. 2175

AN ACT revising the Iowa code of military justice including providing penalties.

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

Section 1. Section 29B.1, Code 1981, is amended to read as follows:

29B.1 PERSONS SUBJECT TO CODE. This chapter applies to all members of the state military forces ~~who are not in federal service~~. As used in this chapter, unless the context otherwise requires, "state military forces" means the national guard of the state of Iowa as defined in 32 U.S.C. section 101, subsections 3, 4 and 6 (1981) and any other military force organized under state law when the national guard or other military force is not in a status subjecting it to jurisdiction under 10 U.S.C. chapter 47 (1981), and "code" means this chapter, which may be cited as the "Iowa Code of Military Justice".

Sec. 2. Section 29B.4, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Commissioned officers, warrant officers, ~~petty officers, and~~ noncommissioned officers ~~have authority to,~~ and military police may quell quarrels, frays, and disorders among persons subject to this code and ~~to~~ may apprehend persons subject to this code who take part therein.

Sec. 3. Section 29B.6, Code 1981, is amended to read as follows:

29B.6 IMPOSITION OF RESTRAINT. Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing ~~him~~ the person to remain within certain specified limits. Confinement is the physical restraint of a person.

An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code or through any person authorized by this code to apprehend persons.

A commanding officer may authorize warrant officers~~, petty officers~~ or noncommissioned officers to order enlisted members of ~~his~~ the officer's command or subject to ~~his~~ the officer's authority into arrest or confinement.

A commissioned officer or a warrant officer may be ordered apprehended or into arrest or confinement only by a commanding officer to whose authority ~~he~~ the commissioned or warrant officer is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons apprehended or into arrest or confinement may not be delegated.

This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until the proper authority is notified.

Sec. 4. Section 29B.7, Code 1981, is amended to read as follows:

29B.7 PROBABLE CAUSE. ~~No~~ A person ~~may~~ shall not be ordered apprehended or into arrest or confinement except for probable cause.

~~This section does not limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.~~

Sec. 5. Section 29B.14, Code 1981, is amended to read as follows:

29B.14 COMMANDING OFFICERS NONJUDICIAL PUNISHMENT.

1. Under ~~such~~ regulations as the adjutant general may prescribe limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers and warrant officers authorized to exercise

those powers, the applicability of this section to an accused who demands trial by court-martial, and the kinds of courts-martial to which the case may be referred upon such a demand. However, punishment shall not be imposed upon any member of the state military forces under this section if the member demands trial by court-martial in lieu of punishment before imposition of the punishment. The adjutant general may adopt rules relating to the suspension and mitigation of punishments authorized under this code. The adjutant general, or an officer of a general rank in command may delegate powers under this section to a principal assistant who is a member of the state military forces according to rules adopted by the adjutant general.

2. Subject to rules of the adjutant general, any commanding officer may, in addition to or in lieu of admonition or reprimand, impose ~~one of the following~~ disciplinary punishments for minor offenses without the intervention of a court-martial as follows:

~~1.~~ a. Upon ~~officer of his~~ officers under the officer's command any one or a combination of the following:

~~a.~~ (1) Withholding of privileges for not more than two consecutive weeks~~;~~ .

~~b.~~ (2) Restriction to certain specified limits with or without suspension from duty, for not more than two consecutive weeks~~, or~~.

~~c.~~ (3) If imposed by a commanding officer of the state military forces of field grade or above, a fine or forfeiture of pay and allowances of not more than twenty-five dollars.

~~2.~~ b. Upon other military personnel ~~of his~~ under the officer's command any one or a combination of the following:

~~a.~~ (1) Withholding of privileges for not more than two consecutive weeks~~;~~.

~~b.~~ (2) Restriction to certain specified limits, with or without suspension from duty, for not more than two consecutive weeks~~;~~.

~~c.~~ (3) Extra duties for not more than fourteen days, which need not be consecutive, and for not more than two hours per day, holidays included~~;~~.

~~d.~~ (4) Reduction to the ~~lowest or any intermediate grade within his promotion authority,~~ next inferior pay grade if the current grade from which demoted is within the promotion authority of the officer imposing the reduction or an officer subordinate to the one imposing the reduction.

~~e. If imposed by an officer exercising special court-martial jurisdiction over the offender, a fine or forfeiture of pay and allowances of not more than ten dollars.~~

c. If the commanding officer is of field grade or above:

(1) Any one or a combination of the punishments stated in paragraph b, subparagraph 1, 2, or 3, of this subsection except that an enlisted member in a pay grade above E-4 shall not be reduced more than two pay grades.

(2) A fine or forfeiture of pay of not more than ten dollars.

d. Maximum allowable punishments of withholding of privileges, restrictions, and extra duties shall not be combined to run consecutively.

3. A person punished under this section who considers ~~his~~ the punishment unjust or disproportionate to the offense may~~, through the proper channel,~~ appeal to the next superior authority through the proper channel. The authority considering the appeal may refer a case that has been appealed to a staff judge advocate or legal officer for consideration and advice and shall do so before deciding on the appeal when the punishment is restriction, withholding of privileges, extra duties, forfeiture of pay, or reduction from the fourth or higher pay grade. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, ~~his~~ the officer's successor in command, or superior authority may suspend, set aside, or remit any part or amount of the punishment and restore all rights, privileges and

property affected. In addition the officer or authority may at any time place the offender on probation and suspend a reduction in grade or forfeiture whether or not executed.

4. The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section, but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

~~Whenever~~ 5. When a punishment of forfeiture of pay and allowances is imposed under this section, the forfeiture may apply to pay or allowances accruing on or after that punishment is imposed and to ~~any~~ pay and allowances accrued before that date.

Sec. 6. Section 29B.15, Code 1981, is amended to read as follows:

29B.15 COURTS-MARTIAL ~~OF STATE MILITARY FORCES NOT IN FEDERAL SERVICE—JURISDICTION—FORMS AND PROCEEDINGS~~ CLASSIFIED. In the state military forces ~~not in federal service,~~ there are general, special, and summary courts-martial constituted like similar courts of the armed forces of the United States. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.

The three kinds of courts-martial are:

1. General courts-martial, consisting of ~~a law officer and not less than five members;~~ either of the following:

a. A military judge and not less than five members.

b. Only a military judge, if before the court is assembled the accused, knowing the identity of the military judge, and after consultation with defense counsel, requests in writing a court composed only of a military judge and the military judge approves.

2. Special courts-martial, consisting of ~~not less than three members; and~~ any of the following:

a. Not less than three members.

b. A military judge and not less than three members.

c. Only a military judge, if one has been detailed to the court, and the accused requests only a military judge under the same conditions as prescribed in subsection 1, paragraph b.

3. Summary courts-martial, consisting of one commissioned officer.

Sec. 7. Section 29B.18, Code 1981, is amended to read as follows:

29B.18 JURISDICTION OF SPECIAL OR SUMMARY COURTS-MARTIAL.

1. Subject to section 29B.16, special courts-martial have jurisdiction to try persons subject to this code for any offense for which they may have been punished under this code and may, under such limitations as the adjutant general may impose by rule, adjudge any one or a combination of the following punishments:

a. A fine not exceeding one hundred dollars.

b. Forfeiture of pay and allowances not exceeding one thousand dollars.

c. A reprimand.

d. Dismissal or dishonorable discharge.

e. Reduction of a noncommissioned officer to the ranks.

A special courts-martial shall not try a commissioned officer. ~~A special court-martial has the same powers of punishment as a general court-martial except that a fine imposed by a special court-martial may not be more than one hundred dollars for a single offense.~~

2. a. Subject to section 29B.16, summary courts-martial have jurisdiction to try persons subject to this code, ~~except officers,~~ for any offense made punishable by this code.

b. ~~No~~ A person with respect to whom summary courts-martial have jurisdiction ~~may~~ shall

not be brought to trial before a summary court-martial if ~~he~~ the person objects ~~thereto~~, unless under section 29B.14 ~~he~~ the person has been permitted and has elected to refuse punishment under that section. If objection to trial by summary court-martial is made by an accused who has not been permitted to refuse punishment under section 29B.14, trial shall be ordered by special or general court-martial, as ~~may be~~ appropriate.

c. A summary court-martial may ~~sentence to a~~, under limitations the adjutant general imposes by rule, adjudge any of the following punishments:

(1) A fine of not more than twenty-five dollars for a single offense~~, to forfeiture~~.

(2) Forfeiture of pay and allowances, not to exceed two-thirds of ~~one month's pay, and to reduction~~ base pay to be received for the equivalent of four unit training assemblies.

(3) Reduction of a noncommissioned officer to the ranks.

Sec. 8. Section 29B.19, Code 1981, is amended to read as follows:

29B.19 SENTENCES OF DISMISSAL OR DISHONORABLE DISCHARGE TO BE APPROVED BY THE GOVERNOR. In the ~~organized militia not in federal service, no~~ state military forces a sentence of dismissal or dishonorable discharge ~~may~~ shall not be executed until it is approved by the governor.

Sec. 9. Section 29B.20, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.20 COMPLETE RECORD. A sentence imposing a dishonorable discharge, discharge under other than honorable conditions, dismissal, or confinement shall not be adjudged unless a complete record of the proceedings and testimony has been made, counsel having the qualifications prescribed under this code was detailed to represent the accused, and a military judge could not be detailed to the trial because of physical conditions or military exigencies. If a military judge was not detailed to the trial, the convening authority shall make a detailed written statement, to be appended to the record, stating the reason a military judge could not be detailed.

Sec. 10. Section 29B.23, Code 1981, is amended to read as follows:

29B.23 WHO MAY CONVENE GENERAL COURTS-MARTIAL. In the state military forces ~~not in federal service,~~ general courts-martial may be convened by the governor, or by the adjutant general of the state of Iowa.

Sec. 11. Section 29B.24, Code 1981, is amended to read as follows:

29B.24 ~~SPECIAL COURTS-MARTIAL OF STATE MILITARY FORCES NOT IN FEDERAL SERVICE~~ – WHO MAY CONVENE SPECIAL COURTS-MARTIAL. In the state military forces ~~not in federal service~~, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where ~~troops~~ members of the state military forces are on duty, or of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. When any such officer is an accuser, the court shall be convened by superior competent authority.

~~A special court-martial may not try a commissioned officer.~~

Sec. 12. Section 29B.25, Code 1981, is amended to read as follows:

29B.25 SUMMARY COURTS-MARTIAL – WHO MAY CONVENE. In the state military forces ~~not in federal service~~, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where ~~troops~~ members of the state military forces are on duty, or of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of ~~an assistant state judge advocate~~ one commissioned officer. The proceedings shall be informal.

When only one commissioned officer is present with a command or detachment ~~he~~ the officer shall be the summary court officer of that command or detachment and shall hear and

determine all summary court-martial cases ~~brought before him~~.

Sec. 13. Section 29B.26, Code 1981, is amended to read as follows:

29B.26 WHO MAY SERVE ON COURTS-MARTIAL. Any commissioned officer of or on duty with the state military forces is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before ~~such~~ the courts for trial.

Any warrant officer of or on duty with the state military forces is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before ~~such~~ the courts for trial.

Any enlisted member of the state military forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member who may lawfully be brought before ~~such~~ the courts for trial, but ~~he~~ the enlisted member shall serve as a member of a court only if, before the end of any pretrial session that is held or if none is held before the convening of the court, the accused personally has requested in writing, that enlisted members serve on it. After such a request, the accused ~~may~~ shall not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-third of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies. If such members cannot be obtained, the court may be convened and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

In this section, the word "unit" means any regularly organized body of the state military forces ~~not larger than a company, a squadron, or a body corresponding to one of them~~.

When it can be avoided, ~~no~~ a person subject to this code ~~may~~ shall not be tried by a court-martial any member of which is junior to ~~him~~ the person in rank or grade.

When convening a court-martial, the convening authority shall detail as members ~~thereof such members as,~~ of the courts-martial persons who in ~~his~~ the convening authority's opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. ~~No member~~ A person is not eligible to serve as a member of a general or special court-martial when ~~he~~ the person is the accuser or a witness for the prosecution or has acted as investigating officer, staff judge advocate, or as counsel in the same case. ~~If within the command of the convening authority there is present and not otherwise disqualified~~ If a military judge is not appointed for a special court-martial and if a commissioned officer who is a member of the bar of the highest court of the state and of appropriate rank and grade is present and not otherwise disqualified and within the command of the convening authority, the convening authority shall appoint ~~him~~ the commissioned officer as president of a special court-martial. ~~Although this requirement is binding on the convening authority, failure~~ Failure to meet ~~it in any case~~ this requirement does not divest a military court of jurisdiction.

Sec. 14. Section 29B.27, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.27 MILITARY JUDGE OF A GENERAL COURT-MARTIAL. The authority convening a general court-martial shall detail a military judge to the court-martial. Subject to rules of the adjutant general, the authority convening a special court-martial may detail a military judge to the court-martial. A military judge shall preside over each open session of the court-martial to which the military judge has been detailed.

A military judge must be a commissioned officer of the state armed forces or a retired officer of the reserve components of the armed forces of the United States, a member of the bar of a federal court or a member of the bar of the highest court of the state, and certified to be qualified for the duty by the judge advocate of the armed forces or the state judge

advocate. The state judge advocate may recommend to the adjutant general that the adjutant general order to active duty retired personnel of the United States armed forces who are qualified to act as military judges.

Unless the court-martial was convened by the governor neither the convening authority nor any member of the convening authority's staff shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed to perform the duties of a military judge. A person is not eligible to act as a military judge in a case if the person is the accuser or a witness for the prosecution or has acted as investigating officer or as a counsel in the same case. The military judge of a court-martial shall not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor shall the military judge vote with members of the court.

Sec. 15. Section 29B.28, Code 1981, is amended to read as follows:

29B.28 DETAIL OF TRIAL COUNSEL AND DEFENSE COUNSEL. For each general and special court-martial the authority convening the court shall detail trial counsel and defense counsel and ~~such~~ assistants ~~as he~~ the authority considers appropriate. ~~No~~ A person who has acted as investigating officer, ~~law officer~~ military judge, or court member in ~~any~~ a case ~~may~~ shall not act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel, or assistant defense counsel in the same case. ~~No~~ A person who has acted for the prosecution ~~may~~ shall not act later in the same case for the defense, nor ~~may any~~ shall a person who has acted for the defense act later in the same case for the prosecution.

Trial counsel or defense counsel detailed for a general court-martial must be a person who is a member of the bar of the highest court of the state, or a member of the bar of a federal court and certified as competent for the duty by the state judge advocate.

In the case of a special court-martial:

1. The accused has the right to be represented at the trial by counsel having the qualifications stated in this section unless counsel having such qualifications cannot be provided because of physical conditions or military exigencies. If such counsel cannot be provided, the court may be convened and the trial held, but the convening authority shall append a detailed written statement to the record stating why such counsel was not provided.

~~1.~~ 2. If the trial counsel is qualified to act as counsel before a general court-martial, the defense counsel detailed by the convening authority must be a person similarly qualified~~; and~~.

~~2.~~ 3. If the trial counsel is a member of the bar of the highest court of the state, the defense counsel detailed by the convening authority must also be a member of the bar of the highest court of the state.

Sec. 16. Section 29B.30, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.30 ABSENT AND ADDITIONAL MEMBERS.

1. A member of a general or special court-martial shall not be absent or excused after the court has been assembled for the trial of the accused except for physical disability or as the result of a challenge or by order of the convening authority for good cause.

2. If a general court-martial, except a general court-martial composed of a military judge only, is reduced below five members, the trial shall not proceed until the convening authority details new members sufficient in number to provide not less than five members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the new members of the court in the presence of the military judge, the accused, and counsel for both sides.

3. If a special court-martial, except a special court-martial composed of a military judge only, is reduced below three members, the trial shall not proceed until the convening authority details new members sufficient in number to provide not less than three members. The trial shall proceed with the new members present as if no evidence had previously been introduced at the trial, unless a verbatim record of the evidence previously introduced before the members of the court is read to the new members of the court in the presence of the military judge, if any, the accused, and counsel for both sides.

4. If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed after the detail of a new military judge as if no evidence had previously been introduced unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides.

Sec. 17. Section 29B.33, Code 1981, is amended to read as follows:

29B.33 INVESTIGATION. ~~No~~ A charge or specification ~~may~~ shall not be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth ~~therein has been~~ in the charge or specification is made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

The accused shall be advised of the charges ~~against him~~ and of ~~his~~ the right to be represented at ~~that~~ the investigation by counsel. Upon ~~his~~ the accused's own request ~~he~~ the accused shall be represented by civilian counsel ~~if provided by him~~ at the expense of the accused, or military counsel of ~~his~~ the accused's own selection if such counsel is reasonably available, or by counsel detailed by the ~~officer exercising general court-martial jurisdiction over the command~~ convening authority. At that investigation full opportunity shall be given to the accused to cross-examine prosecution witnesses ~~against him~~ if they are available and to present anything ~~he~~ the accused may desire in ~~his~~ the accused's own behalf, either in defense or mitigation, and the investigating officer shall examine witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed above, no further investigation of that charge is necessary under this section unless it is demanded by the accused after ~~he~~ the accused is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in ~~his~~ the accused's own behalf.

The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction.

Sec. 18. Section 29B.34, Code 1981, is amended to read as follows:

29B.34 FORWARDING OF CHARGES. When a person is held for trial by general court-martial the commanding officer shall, within eight days after the accused is ordered into arrest or confinement, if practicable, forward the charges directly to the ~~adjutant general direct~~ person exercising general court-martial jurisdiction, together with the investigation and allied papers. If that is not practicable, ~~he~~ the commanding officer shall report in writing to the adjutant general the reasons for delay.

Sec. 19. Section 29B.36, Code 1981, is amended to read as follows:

29B.36 SERVICE OF CHARGES. The trial counsel to whom court-martial charges are referred for trial shall cause to be served upon the accused a copy of the charges upon which trial is to be had. ~~In time of peace no person may, against his objection,~~ The accused shall not be brought to trial before a general court-martial or be required to participate in a session before a military judge under section 21 within a period of five days after the service of the charges upon ~~him~~ the accused, or before a special court-martial within a period of three days after the service of the charges upon ~~him~~ the accused, unless the accused consents otherwise.

Sec. 20. Section 29B.37, Code 1981, is amended to read as follows:

29B.37 ADJUTANT GENERAL MAY PRESCRIBE RULES. The procedures, including modes of proof, in cases before military courts and other military tribunals ~~may~~ shall be prescribed by the adjutant general by ~~regulations, which shall, so far as he considers practicable, apply the principles of law and the rule of evidence generally recognized in the trial of criminal cases in the courts of the state~~ rule, but ~~which may~~ shall not be contrary to or inconsistent with this code. This code shall be construed as to effectuate the general purpose of uniformity so far as practical with the uniform code of military justice, U.S.C. 47. All courts and other proceedings shall be conducted under the procedural rules established under 10 U.S.C. 47 unless otherwise provided in this code.

Sec. 21. Section 29B.38, Code 1981, is amended to read as follows:

29B.38 UNLAWFULLY INFLUENCING ACTION OF COURT.

1. ~~No~~ The authority convening a general, special, or summary court-martial ~~nor~~ or any other commanding officer, or officer serving on the staff ~~thereof~~ of the authority, ~~may~~ shall not censure, reprimand, or admonish the court or any member, ~~law officer~~ military judge, or counsel ~~thereof~~ of the court, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or ~~his~~ the court or military judge or counsel's functions in the conduct of the proceeding. ~~No~~ A person subject to this code ~~may~~ shall not attempt to coerce or, by any unauthorized means, influence the action of the court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to ~~his~~ the authority's judicial acts. Any violation of this section shall be punished as a court-martial may direct.

2. In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used to determine whether a member of the state military force is qualified to be advanced in grade, reassigned, transferred, or retained on active duty, a person shall not do either of the following:

a. Consider or evaluate the performance of duty of the member as a member of a court-martial or military judge.

b. Give a less favorable rating or evaluation of a member of the state military forces because of the zeal with which the member, as counsel, represented an accused before a court-martial.

Sec. 22. Section 29B.39, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The accused has the right to be represented in ~~his~~ the accused's defense before a general or special court-martial by civilian counsel if provided ~~by him~~ at the expense of the accused, or by military counsel ~~of his own selection~~ selected by the accused if reasonably available, or by the defense counsel detailed under section 29B.28. ~~Should~~ If the accused ~~have~~ selects defense counsel ~~of his own selection~~, the defense counsel, and assistant defense counsel, if any, who were detailed, shall, if the accused so desires, act as ~~his~~ associate counsel for the accused; otherwise they shall be excused by the military judge or by the president of the ~~court~~ court-martial if there is no military judge.

Sec. 23. Section 29B.40, Code 1981, is amended by striking the section and inserting in lieu thereof the following section:

29B.40 SESSIONS. At any time after the service of charges referred for trial to a court-martial composed of a military judge and members, the military judge may, subject to this chapter, call the court into session without the presence of the members for the purpose of any of the following:

1. Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty.

2. Hearing and ruling upon any matter which may be ruled upon by the military judge under this code, whether or not the matter is appropriate for later consideration or decision by the members of the court.

3. If permitted by rules of the adjutant general holding the arraignment and receiving the pleas of the accused.

4. Performing any other procedural function which may be performed by the military judge under this code or under rules adopted pursuant to this code and which does not require the presence of the members of the court.

These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made a part of the record.

When the members of a court-martial deliberate or vote, only the members may be present. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which a military judge has been detailed to the court, the military judge.

Sec. 24. Section 29B.41, Code 1981, is amended to read as follows:

29B.41 CONTINUANCES. A military judge or court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

Sec. 25. Section 29B.42, Code 1981, is amended to read as follows:

29B.42 CHALLENGES. ~~Members~~ The military judge and members of a general or special court-martial ~~and the law officer of a general court-martial~~ may be challenged by the accused or the trial counsel for cause stated to the court. The military judge or the court in the absence of a military judge shall determine the relevancy and validity of challenges for cause, and ~~may~~ shall not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.

Each accused and the trial counsel is entitled to one peremptory challenge, but the ~~law officer may~~ military judge shall not be challenged except for cause~~, as outlined in rules of civil procedure 187 "f" and stated to the court~~.

Sec. 26. Section 29B.43, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.43 OATHS. Before performing their official duties, military judges, members of a general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, reporters and interpreters shall take an oath to perform their duties faithfully. The adjutant general shall adopt rules prescribing the form of the oath, the time and place of the taking of the oath, the manner of recording, and whether the oath must be taken for all cases in which official duties must be performed or for a particular case. The rules may provide that an oath to perform duties faithfully as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant defense counsel may be taken at any time by any judge advocate or legal officer, or other person certified to be qualified or competent for the duty, and that once taken the oath need not be taken again each time the person is detailed to that duty.

Sec. 27. Section 29B.46, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.46 PLEAS OF THE ACCUSED.

1. If the accused after arraignment makes an irregular pleading, or after a plea of guilty sets up defenses inconsistent with the plea, or if it appears that the accused has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though the accused had pleaded not guilty.

2. With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge, or by a court-martial without a military judge, a finding of guilty of the charge or specification may, if permitted by rules of the adjutant general be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to the announcement of the sentence, in which case the proceedings shall continue as though the accused had pleaded not guilty.

Sec. 28. Section 29B.47, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The military judge or the president of a court-martial ~~or a summary court officer~~ without a military judge may:

Sec. 29. Section 29B.48, subsection 3, Code 1981, is amended to read as follows:

3. Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person ~~may have~~ has been legally subpoenaed to produce; is guilty of ~~an offense against the state and a military court may punish him in the same manner as the civil courts of the state~~ a simple misdemeanor.

Upon certification of the facts in a case under this section by the military judge, president of courts-martial without a military judge, or summary courts-martial officer, the county attorney of the county where the offense occurred shall prosecute the offense as if it were included in the Iowa criminal code.

Sec. 30. Section 29B.49, Code 1981, is amended to read as follows:

29B.49 CONTEMPTS.

1. A military court may punish for contempt any person subject to this code who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment ~~may~~ shall not exceed confinement for thirty days or a fine of one hundred dollars, or both.

2. A person who is not subject to this code who engages in conduct described in subsection 1 is guilty of a simple misdemeanor. The facts shall be certified to the county attorney of the county in which the offense occurred who shall prosecute the case as if the offense were included in the Iowa criminal code.

Sec. 31. Section 29B.50, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.50 DEPOSITIONS. At any time after charges have been signed, as provided in section 29B.31 any party may take oral or written depositions unless the military judge or court-martial without a military judge hearing the case, or if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, the authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

Depositions may be taken before and authenticated by any military or civil officer authorized to administer oaths by the laws of the United States or by the laws of the place where the deposition is taken.

A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence before any court-martial or in any proceeding before a court of inquiry, if any of the following are apparent:

1. That the witness resides or is out of the state of Iowa and the witness' appearance cannot be obtained, unless it appears that the absence of the witness was procured by the party offering the deposition.

2. That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, or other reasonable cause, is unable to appear and testify in person at the place of trial or hearing.

3. That the party offering the deposition has been unable to procure the attendance of the witness by subpoena or other process and the present whereabouts of the witness is unknown.

Sec. 32. Section 29B.52, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.52 VOTING AND RULINGS.

1. Voting by members of a general or special court-martial on the findings and on the sentence, and by members of a court-martial without a military judge upon questions of challenge shall be by secret written ballot. The junior member of the court shall count the votes. The count shall be checked by the president, who shall immediately announce the result of the ballot to the members of the court.

2. The military judge and, except for questions of challenge, the president of a court-martial without a military judge, shall rule upon all questions of law and all interlocutory questions arising during the proceedings. A ruling made by the military judge upon a question of law or an interlocutory question other than the factual issue of mental responsibility of the accused, or by the president of a court-martial without a military judge upon a question of law other than a motion for a finding of not guilty is final and constitutes the ruling of the court. However, the military judge may change a ruling at any time during the trial. Unless the ruling is final, if a member objects to the ruling, the court shall be cleared and closed and the question decided by a voice vote as provided in this code beginning with the junior in rank.

3. Before a vote is taken on the findings, the military judge or the president of a court-martial without a military judge shall, in the presence of the accused and counsel, instruct the members of the court as to the elements of the offense and charge them as follows:

a. That the accused must be presumed to be innocent until guilt is established by legal and competent evidence beyond reasonable doubt.

b. That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and the accused must be acquitted.

c. That, if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt.

d. That the burden of proof for establishing the guilt of the accused beyond reasonable doubt is upon the state.

4. Subsection 3 does not apply to a court-martial composed of a military judge only. The military judge of a court-martial composed only of a military judge shall determine all questions of law and fact arising during the proceedings, and, if the accused is convicted, adjudge an appropriate sentence. The military judge shall make a general finding and shall find the facts specifically on request. If an opinion or memorandum of decision is filed, it is sufficient if the findings of fact appear in the opinion or memorandum of decision.

Sec. 33. Section 29B.53, Code 1981, is amended to read as follows:

29B.53 NUMBER OF VOTES REQUIRED. ~~No~~ A person ~~may~~ shall not be convicted of an offense, except as provided in this code by the concurrence of two-thirds of the members present at the time the vote is taken.

All sentences shall be determined by the concurrence of two-thirds of the members present at the time that the vote is taken.

All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote. A tie vote on a challenge disqualifies the member challenged. A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused. A tie vote on any other question is a determination in favor of the accused but a determination to reconsider a finding of guilty or to reconsider a sentence for the purpose of possible reduction may be made by any lesser vote if the determination to reconsider is not opposed by two thirds of the members present.

Sec. 34. Section 29B.55, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

29B.55 RECORD OF TRIAL. Each general court-martial shall keep a separate record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of death, disability, or absence of the military judge, it shall be authenticated by the signature of the trial counsel or by the signature of a member if the trial counsel is unable to authenticate it by reason of death, disability, or absence. In a court-martial consisting of only a military judge the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection. If the proceedings have resulted in an acquittal of all charges and specifications or, if not affecting a general officer, in a sentence not including discharge, dismissal, or confinement and not in excess of that which may otherwise be adjudged by a special court-martial, the record shall contain matters prescribed by rules of the adjutant general.

Each special and summary court-martial shall keep a separate record of the proceedings in each case, and the record shall contain the matter and shall be authenticated in the manner required by rules of the adjutant general.

A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as the record is authenticated. If a verbatim record of trial by general court-martial is not required, but is made, the accused may buy the record as prescribed in rules of the adjutant general.

Sec. 35. Section 29B.58, Code 1981, is amended to read as follows:

29B.58 EFFECTIVE DATE OF SENTENCES.

1. ~~Whenever~~ When a sentence of a court-martial as lawfully adjudged and approved includes a forfeiture of pay or allowances in addition to confinement not suspended or deferred, the forfeiture ~~may~~ shall apply only to pay or allowances becoming due on or after the date the sentence is approved by the convening authority. ~~No~~ A forfeiture ~~may~~ shall not extend to any pay or allowances accrued before that date.

2. ~~Any~~ A period of confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial but periods during which the sentence to confinement is suspended or deferred shall be excluded in computing the service of the term of confinement, provided~~, however,~~ that credit be given for confinement served prior to trial. ~~Regulations~~ Rules prescribed by the adjutant general may provide that sentences of confinement ~~may~~ shall not be executed until approved by designated officers.

3. All other sentences of courts-martial are effective on the date ordered executed.

4. On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority, or if the accused is no longer under the jurisdiction of the convening authority, the person exercising general court-martial jurisidiction, may in the person's discretion defer service of the sentence to confinement. The deferral terminates

when the sentence is ordered executed. The deferral may be rescinded at any time by the officer who granted it, or, if the accused is no longer under jurisdiction of that officer, by the person exercising general court-martial jurisdiction.

5. Unless otherwise provided in rules of the adjutant general, a court-martial sentence of an enlisted member in pay grade above E-1, that includes a discharge under other than honorable conditions or confinement and that is approved by the convening authority reduces the member to pay-grade E-1, effective on the date of the approval.

6. If the sentence of a member who is reduced in pay grade under subsection 5 is set aside or disapproved, or, as finally approved, does not include a punishment named in subsection 5, the rights and privileges of which the member was deprived because of the reduction shall be restored and the member is entitled to the pay and allowances lost during the period the reduction was in effect.

Sec. 36. Section 29B.60, Code 1981, is amended to read as follows:

29B.60 EXECUTION OF SENTENCE—SUSPENSION OF SENTENCE. Except as provided in sections 29B.20 and 29B.65, a court-martial sentence, unless suspended or deferred, may be ordered executed by the convening authority when approved by ~~him.~~ ~~He~~ the convening authority. The convening authority shall approve the sentence or ~~such~~ the part, amount, or commuted form of the sentence as ~~he~~ the convening authority sees fit, and may suspend or defer the execution of the sentence ~~as approved by him~~.

Sec. 37. Section 29B.61, Code 1981, is amended to read as follows:

29B.61 INITIAL ACTION OF RECORD. After a trial by court-martial the record shall be forwarded to the convening authority, as reviewing authority, and action ~~thereon~~ may be taken by the person who convened the court, a commissioned officer commanding for the time being, a successor in command, or by the adjutant general.

In acting on the findings and sentence of a court-martial, the convening authority may approve only such findings of guilty, and the sentence or part or amount of the sentence as the convening authority finds correct in law and fact and as in the convening authority's discretion should be approved. Unless the convening authority indicates otherwise, approval of the sentence includes approval of the findings.

Sec. 38. Section 29B.65, unnumbered paragraphs 2, 3, and 8, Code 1981, are amended to read as follows:

In all other cases not covered by unnumbered paragraph 1 of this section, if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, dishonorable discharge, dismissal, or confinement, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. The record and the opinion of the staff judge advocate or legal officer shall then be sent to the state judge advocate for review.

All other special and summary court-martial records shall be sent to the appropriate staff judge advocate of the ~~appropriate force of the~~ state ~~military forces~~ force concerned and shall be acted upon, transmitted, and disposed of as ~~may be~~ prescribed by ~~regulations prescribed by~~ rules of the adjutant general.

The state judge advocate may order one or more boards of review each composed of not less than three commissioned officers of the state military forces, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by ~~special~~ court-martial including a sentence to a ~~bad-conduct~~ dishonorable discharge, dismissal or confinement, referred to it by the state judge advocate. Boards of review have the same authority on review as the state judge advocate has under this section.

Sec. 39. Section 29B.67, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Upon the final review of a sentence of a general court-martial or of a sentence to a ~~bad-conduct~~ dishonorable discharge, dismissal, or confinement, the accused has the right to be represented by counsel before the reviewing authority, before the staff judge advocate, and before the appropriate state judge advocate.

Sec. 40. Section 29B.68, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Before the vacation of the suspension of a special court-martial sentence which as approved includes a ~~bad-conduct~~ discharge under other than honorable conditions, a dismissal, or a confinement, or of any general court-martial sentence, the officer having special court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. The probationer shall be represented at the hearing by counsel if ~~he~~ the probationer so desires.

Sec. 41. Section 29B.69, Code 1981, is amended to read as follows:

29B.69 PETITION FOR A NEW TRIAL. At any time within two years after approval by the convening authority of a court-martial sentence which extends to dismissal, dishonorable or bad-conduct discharge, the accused may petition the governor for a new trial on ground of newly discovered evidence ~~of~~ or fraud on the court-martial.

Sec. 42. Section 29B.73, Code 1981, is amended to read as follows:

29B.73 PERSONS TO BE TRIED OR PUNISHED. ~~No~~ A person ~~may~~ shall not be tried or punished for any offense provided for in this code unless it was committed while ~~he~~ the person was in a duty status or during a time when the person was under lawful orders to be in a duty status.

Sec. 43. Section 29B.97, Code 1981, is amended to read as follows:

29B.97 SUBORDINATE COMPELLING SURRENDER. ~~Any~~ A person subject to this code who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property or any body of the state military forces ~~of the state~~, or of any other state, to ~~give it up~~ surrender the place, property, or forces to an enemy or to abandon ~~it~~ the place, property, or forces, or who strikes the colors or flag to an enemy without proper authority, shall be punished as a court-martial may direct.

Sec. 44. Section 29B.103, Code 1981, is amended to read as follows:

29B.103 FALSE OFFICIAL STATEMENTS—FORGERY.

1. ~~Any~~ A person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

2. A person subject to this code who with intent to defraud does either or both of the following is guilty of forgery and shall be punished as a court-martial may direct:

a. Falsely makes or alters a signature to, or a part of, a writing which would if genuine apparently impose a legal liability on another or change the person's legal right or prejudice the person's liability.

b. Utters, offers, issues, or transfers written material the person knows is falsely made or altered.

Sec. 45. Section 29B.104, Code 1981, is amended to read as follows:

29B.104 PROPERTY ~~OTHER THAN MILITARY PROPERTY—WASTE, SPOILAGE OR DESTRUCTION~~ CRIMES.

1. ~~Any~~ A person subject to this code who, while in a duty status, willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages ~~any~~ property other than military property of the United States or of the state shall be punished as a court-martial may direct.

2. A person subject to this code who without proper authority sells or otherwise disposes of

or who willfully or through neglect damages, destroys, or loses or who causes willfully or through neglect the damage, destruction, sale, or wrongful disposition of military property of the United States or the state shall be punished as a court-martial may direct.

Sec. 46. Section 29B.116, Code 1981, is amended to read as follows:

29B.116 GENERAL ARTICLE. Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the ~~organized militia~~ state military forces, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance ~~may~~ shall not be taken of, and jurisdiction ~~may~~ shall not be extended to, the crimes of murder, manslaughter, rape, robbery, maiming, sodomy, arson, extortion, assault, burglary, or housebreaking, jurisdiction of which is reserved to civil courts.

Sec. 47. Section 29B.117, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Courts of inquiry to investigate any matter may be convened by the adjutant general, the governor, or by any other person designated by the adjutant general or authorized to convene a general court-martial for that purpose, whether or not the persons involved have requested ~~such an~~ the inquiry.

Sec. 48. Section 29B.120, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Process and mandates may be issued by summary courts-martial, provost courts, a military judge, or the president of other military courts and may be directed to and ~~may be~~ executed by the marshals of the military court or any peace officer ~~and shall be in such~~. Process and mandates shall be in a form ~~as may be~~ prescribed by ~~regulations~~ rules issued under this code.

Sec. 49. Chapter 29B, Code 1981, is amended by adding sections 50 through 54 of this Act.

Sec. 50. NEW SECTION. IMMUNITY FOR ACTION OF MILITARY COURTS. An accused shall not bring an action or proceeding against the convening authority or a member of a military court or board convened under this code or a person acting under its authority or reviewing its proceedings because of the approval, imposition, or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court or board convened under this code.

Sec. 51. NEW SECTION. PAYMENT AND DISPOSITION OF FINES. Fines imposed by a military court may be paid to the court or to an officer executing its process. The amount of the fine may be noted upon any state payroll or pay account and fines may be deducted from any pay or allowance due or thereafter to become due to the offender, until the fine is collected. Any sum so deducted shall be turned into the military court that imposed the fine. An officer collecting a fine or penalty imposed by a military court upon an officer or enlisted person shall pay the fine within thirty days to the judge advocate, who shall transmit the fine to the adjutant general. The adjutant general shall monthly, deposit all fines and penalties so received with the state treasurer, to be credited to the general fund of the state. Forfeited bonds shall be processed in the same manner.

Sec. 52. NEW SECTION. PRESUMPTION OF JURISDICTION. The jurisdiction of the military courts and boards established by this code shall be presumed and the burden of proof rests on any person seeking to deny those courts or boards jurisdiction in any action or proceeding.

Sec. 53. NEW SECTION. DELEGATION OF AUTHORITY BY THE GOVERNOR. The governor may delegate any authority vested in the governor under this code, and may provide for the subdelegation of any such authority, except the power given to the governor by sections 29B.19 and 29B.23.

Sec. 54. NEW SECTION. AUTHORITY TO ADMINISTER OATHS. The following members of the state military forces may administer oaths for the purposes of military administration including military justice, and affidavits may be taken for those purposes before persons having the general powers of a notary public:

1. The state judge advocate and assistant state judge advocate.
2. All summary courts-martial.
3. Adjutants, assistant adjutants, acting adjutants, and personnel adjutants.
4. Commanding officers.
5. Staff judge advocates and legal officers, and acting or assistant staff judge advocates and legal officers.
6. The president, military judge, trial counsel, and assistant trial counsel for general and special courts-martial.
7. The president and the counsel for the court of any court of inquiry.
8. Officers designated to take a deposition.
9. Persons detailed to conduct an investigation.
10. Other persons designated by state law or by rules of the governor.

Approved March 25, 1982

CHAPTER 1043

OPHTHALMIC DISPENSER CERTIFICATION

S.F. 2155

AN ACT relating to the requirements for certification as an ophthalmic dispenser.

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

Section 1. Section 153A.2, subsection 2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~Either~~ Any of the following:

Sec. 2. Section 153A.2, subsection 2, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. Six years experience as an ophthalmic dispenser as defined in section 153A.1, accompanied by a reference from a physician and surgeon, osteopath, osteopathic physician and surgeon, or optometrist licensed to practice in this state.

Approved March 26, 1982

CHAPTER 1044

SCHEDULE OF CONTROLLED SUBSTANCES

S.F. 2101

AN ACT amending the schedule of controlled substances.

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

Section 1. Section 204.204, subsection 2, Code 1981, is amended by adding the following new lettered paragraphs in alphabetical sequence and relettering the remaining paragraphs:

NEW LETTERED PARAGRAPH. Alpha-Methylfentanyl (N-(1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl) propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine).

NEW LETTERED PARAGRAPH. Sufentanil.

NEW LETTERED PARAGRAPH. Tilidine.

Sec. 2. Section 204.204, Code 1981, is amended by adding after subsection 5 the following new subsection and renumbering the remaining subsections:

NEW SUBSECTION. 6. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

a. Fenethylline.

Sec. 3. Section 204.206, subsection 3, Code 1981, is amended by adding after paragraph c the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Bulk dextropropoxyphene (nondosage forms).

Sec. 4. Section 204.206, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. Immediate precursor to amphetamine and methamphetamine:

(1) Phenylacetone.

Sec. 5. Section 204.208, subsection 6, paragraph c, Code 1981, is amended by striking the paragraph.

Sec. 6. Section 204.210, subsection 3, paragraph e, Code 1981, is amended by striking the paragraph.

Sec. 7. Section 204.210, subsection 5, Code 1981, is amended by adding the following new lettered paragraphs in alphabetical sequence and relettering the remaining lettered paragraphs:

NEW LETTERED PARAGRAPH. Halazepam.

NEW LETTERED PARAGRAPH. Temazepam.

Sec. 8. Section 204.210, subsection 7, Code 1981, is amended by adding the following new lettered paragraphs in alphabetical sequence and relettering the remaining lettered paragraphs:

NEW LETTERED PARAGRAPH. Mazindol.

NEW LETTERED PARAGRAPH. Pipradrol.

NEW LETTERED PARAGRAPH. SPA((-)-1- dimethylamino-1, 2-diphenylethane).

Sec. 9. Section 204.210, subsection 8, paragraph a, Code 1981, is amended by striking the paragraph.

Sec. 10. Section 204.210, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid in limited quantities as set forth below:

a. Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

b. Dextropropoxyphene (alpha-(+)-4- dimethylamino-1, 2-diphenyl-3-methyl-2- propionoxybutane).

Approved March 26, 1982

CHAPTER 1045

CANCELLATION, REISSUANCE, OR REINSTATEMENT OF MOTOR VEHICLE FUEL TAX LICENSES

H.F. 2249

AN ACT relating to the cancellation of motor vehicle fuel tax licenses and providing for a waiting period before a license may be reissued or reinstated.

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

Section 1. Section 324.68, Code 1981, 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~~ files a false ~~monthly~~ report of the data or information required by this chapter, or ~~shall fail, refuse, or neglect~~ fails, refuses, or neglects 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 the ~~person~~ licensee may appear and show cause why 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 appropriate state agency may cancel the license and shall notify the licensee of the cancellation by registered mail to the licensee's last known address.

If a licensee ~~shall at any time abuse~~ abuses the privileges for which the license was issued, ~~fail~~ fails to produce records reasonably requested or ~~fail~~ fails to extend reasonable cooperation to the appropriate state agency, the licensee shall be advised in writing of a hearing scheduled to determine if ~~said~~ the license shall be canceled. The appropriate state agency upon the presentation of a preponderance of evidence ~~shall be allowed to~~ may cancel a license for cause.

The director of the appropriate state agency may reissue a license which has been canceled for cause. As a condition of reissuance of a license, in addition to requirements for issuing a new license, the director may require a waiting period not to exceed ninety days before a license can be reissued or a new license issued. The director shall adopt rules specifying those instances for which a waiting period will be required.

Upon receipt of written request from any licensee the appropriate state agency shall cancel the license of the licensee effective ~~sixty days from~~ on 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 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 appropriate state agency finds that a licensee is no longer engaged in the activities for which a license was issued and has not been so engaged for a period of six months, the state agency shall cancel the license and give ~~sixty~~ thirty days' notice of the cancellation mailed to the last known address of the licensee.

Approved March 26, 1982

CHAPTER 1046

BENEFITED FIRE DISTRICTS BOARD OF TRUSTEES

S.F. 499

AN ACT relating to the election or appointment of the board of trustees of benefited fire districts.

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

Section 1. Section 357B.2, Code 1981, is amended to read as follows:

357B.2 BOARD OF TRUSTEES. A benefited fire district shall be governed by a board of trustees consisting of three members who shall serve overlapping, three-year terms. Each trustee shall give bond in an amount to be determined by the board of supervisors, the premium for which shall be paid by the district of the trustee. The members of the board of trustees shall be elected at an election ~~called~~ or, if there are insufficient candidates for the office, appointed by the board of supervisors from among the qualified electors of the district. Notice of the election shall be given by publication in ~~two successive issues of~~ a newspaper having general circulation within the district. The notice shall contain the date, time and location of the election. ~~The final publication of the notice of election shall not be less than one week before the date of election. It is not mandatory for the commissioner of elections to conduct the elections held under this chapter, but the~~ The elections shall be conducted in accordance with ~~the provisions of~~ chapter 49 when such provisions are not in conflict with this chapter. The precinct election officials shall be appointed by the board of supervisors from among the qualified electors of the district and shall serve without pay. Any vacancy on the board shall be filled ~~by election or~~ by appointment of the board of supervisors for the unexpired term. If a benefited fire district is located in more than one county, joint action of the

boards of supervisors of the affected counties is required to appoint the members of the board of trustees, to determine the amount of bond, or to dissolve the district as provided in this chapter.

Approved March 26, 1982

CHAPTER 1047

CITY RECORDS

H.F. 759

AN ACT relating to the number of years city records are required to be kept.

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

Section 1. Section 372.13, subsection 5, Code 1981, is amended to read as follows:

5. The council shall determine its own rules and maintain records of its proceedings. City records and documents, or accurate reproductions ~~thereof~~, ~~must~~ shall be ~~maintained~~ kept for at least ~~ten~~ five years, except that ordinances, resolutions, council proceedings, and records and documents relating to real property transactions or bond issues ~~must~~ shall be maintained permanently.

Approved March 26, 1982

CHAPTER 1048

WARRANT ORDERS ISSUED BECAUSE OF FUND DEFICIENCY

H.F. 2224

AN ACT relating to the issuance of a warrant order covering the amounts of warrants not paid because of a fund deficiency.

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

Section 1. Section 331.554, subsection 5, Code 1981 Supplement, is amended to read as follows:

5. a. When a warrant legally drawn on the county treasury is presented for payment and not paid because of a deficiency, the treasurer shall carry out duties relating to the endorsement and payment of interest on the amount of deficiency as provided in chapter 74.

b. In lieu of the requirements and procedures specified in sections 74.1, 74.2, and 74.3, when warrants other than anticipatory warrants are presented for payment and not paid for want of funds or are only partially paid, the treasurer may issue a warrant order for an amount equal to the unpaid warrants drawn on a fund. The warrant order shall be dated and include the fund name, amount, and the rate of interest established under section 74A.6. The warrant order shall be endorsed by the treasurer, "not paid for want of funds", and include the treasurer's signature. The treasurer shall keep a list of all warrants comprising a warrant order and shall submit a duplicate copy of the warrant order to the auditor. The procedures of sections 74.4 through 74.7 apply to warrant orders.

Sec. 2. Section 74.4, Code 1981, is amended to read as follows:

74.4 ASSIGNMENT OF OBLIGATION. When a nonnegotiable interest-bearing obligation is assigned or transferred, the assignee or transferee shall notify the treasurer in writing of the assignment or transfer and of the post-office address of the assignee or transferee. Upon receiving ~~such~~ notification, the treasurer accordingly shall correct the record maintained under section 74.3 or 331.554, subsection 5, paragraph b in section 1 of this Act as applicable.

Sec. 3. Section 74.6, subsection 1, Code 1981, is amended to read as follows:

1. The treasurer shall make a call for payment under section 74.5 by mailing to the holder of the obligation, as shown in the records maintained under section 74.3 or 331.554, subsection 5, paragraph b in section 1 of this Act as applicable, a notice of call which describes the obligation by number and amount, and which specifies a date, not more than ten days thereafter when interest ceases to accrue on the obligation. The treasurer shall enter the date of mailing of the notice in the records maintained under section 74.3 or 331.554, subsection 5, paragraph b in section 1 of this Act as applicable.

Sec. 4. Section 74.7, Code 1981, is amended to read as follows:

74.7 ENDORSEMENT OF INTEREST. When an obligation which legally draws interest is paid, the treasurer shall endorse upon it the date of payment, and the amount of interest paid. The treasurer ~~also~~ shall enter into the records maintained under section 74.3 or 331.554, subsection 5, paragraph b in section 1 of this Act as applicable, the date of payment and the amount of interest paid.

Approved March 26, 1982

CHAPTER 1049

PORTABLE EQUIPMENT USED FOR POLLUTION CONTROL– REVENUE BONDS

S.F. 579

AN ACT authorizing the issuance of industrial revenue bonds under chapter 419 for certain portable equipment used for pollution control.

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

Section 1. Section 419.1, subsection 2, Code 1981, is amended to read as follows:

2. "Project" means all or any part of, or any interest in, (a) any land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under authority of this chapter, which shall be suitable for the use of any voluntary nonprofit hospital, clinic or health care facility as defined in section 135C.1, subsection 4, or of any private college or university, or any state institution governed under chapter 262 whether for the establishment or maintenance of such college or university, or of any industry or industries for the manufacturing, processing or assembling of any agricultural or manufactured products, even though such processed products may require further treatment before delivery to the ultimate consumer, or of any commercial enterprise engaged in storing, warehousing or distributing products of agriculture, mining or industry including but not limited to barge facilities and riverfront improvements useful and convenient for the handling and storage of goods and products, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a beginning businessperson for any purpose or (b) pollution control facilities which shall be suitable for use by any industry, commercial enterprise or utility. "Pollution control facilities" means any land, buildings, structures, equipment, including portable equipment, pipes, pumps, dams, reservoirs, improvements, or other facilities useful for the purpose of reducing, preventing, or eliminating pollution of the water or air by reason of the operations of any industry, commercial enterprise or utility. "Improve", "improving" and "improvements" shall embrace any real property, personal property or mixed property of any and every kind that can be used or that will be useful in connection with a project, including, without limiting the generality of the foregoing, rights of way, roads, streets, sidings, trackage, foundations, tanks, structures, pipes, pipe lines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, improvements, instrumentalities and other real, personal or mixed property of every kind, whether above or below ground level.

Sec. 2. Section 419.1, subsection 5, Code 1981, is amended to read as follows:

5. "Equip" means to install or place on or in any building or improvements or the site thereof equipment of any and every kind, including, without limiting the generality of the foregoing, machinery, utility service connections, building service equipment, fixtures, heating equipment, and air conditioning equipment and including, in the case of portable equipment used for pollution control, all such machinery and equipment which maintains a substantial connection with the building or improvement or the site thereof where installed, placed, or primarily based.

Sec. 3. Section 419.2, subsection 1, Code 1981, is amended to read as follows:

1. To acquire, whether by construction, purchase, gift or lease, and to improve and equip, one or more projects. ~~Such~~ The projects shall be located within this state, may be located

within or near the municipality, but shall not be located more than eight miles outside the corporate limits of the municipality, provided that ancillary improvements necessary or useful in connection with the main project may be located more than eight miles outside the corporate limits of the municipality or, in the case of a project which includes portable equipment for pollution control, that the situs of the principal place of business of the owner of such portable equipment is located within the municipality or not more than eight miles outside of the corporate limits of the municipality.

Approved March 26, 1982

CHAPTER 1050

REFERENCES TO FEDERAL WATER POLLUTION CONTROL ACT

S.F. 2167

AN ACT to update references to the federal Water Pollution Control Act in chapter 455B.

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

Section 1. Section 455B.30, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Federal Water Pollution Control Act" means the federal Water Pollution Control Act of 1972, Pub. L. 92-500, as published in 33 U.S.C. secs. 1251-1376, as amended through December 31, 1981.

Sec. 2. Section 455B.30, subsection 5, Code 1981, is amended to read as follows:

5. "Sewer system" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the federal Water Pollution Control Act ~~as amended~~, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this Act. (66GA, ch 1204)

Sec. 3. Section 455B.33, subsection 4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Approve or disapprove the plans and specifications for the construction of disposal systems or water supply distribution systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.45. The director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to or modification of any disposal system or water supply distribution system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.45. The director shall also issue, revoke, suspend, modify or deny permits for the discharge of any pollutant. ~~Such~~ The permits shall contain ~~such~~ conditions and schedules of compliance as ~~are~~ necessary to meet the requirements of this part of this division and the federal Water Pollution Control Act ~~amendments of 1972~~. A permit shall

not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act ~~amendments of 1972~~. All applications for discharge permits ~~shall be~~ are subject to public notice and opportunity for public participation including public hearing as the commission may by rule require. The executive director shall promptly notify the applicant in writing of ~~his~~ the director's action and, if the permit is denied, state the reasons for denial. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit if ~~he or she~~ the applicant files notice of appeal with the executive director within thirty days of the notice of denial or issuance of the permit. The executive director shall notify the applicant within thirty days of the time and place of the hearing.

Sec. 4. Section 455B.36, subsection 1, Code 1981, is amended to read as follows:

1. The general assembly finds and declares that because the federal Water Pollution Control Act ~~amendments of 1972, Public Law 92-500, provide~~, provides for a permit system to regulate the discharge of pollutants into the waters of the United States and ~~provide~~ 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 enact ~~the provisions of~~ this Act (66GA, ch 1204) in order to authorize the state to implement ~~the provisions of~~ the federal Water Pollution Control Act ~~amendments of 1972 and Acts amendatory or supplementary thereto~~, and federal regulations and guidelines issued pursuant to that Act.

Sec. 5. Section 455B.67, subsections 1 and 5, Code 1981, are amended to read as follows:

1. "Treatment works" means any plant, disposal field, lagoon, holding or flow-regulating basin, pumping station, interceptor sewer, or other works installed for the purpose of treating, stabilizing, or disposing of sewage, industrial waste, or other wastes, which qualify for federal grants pursuant to the federal ~~water pollution Act of 1956, as amended~~ Water Pollution Control Act as defined in section 455B.30, or any other federal Act or program.

5. "Federal pollution abatement assistance" means funds available to a municipality, either directly or through allocation by the state, from the federal government as grants for construction of sewage treatment works pursuant to the federal ~~water pollution Act of 1956 as amended~~ Water Pollution Control Act as defined in section 455B.30.

Approved March 26, 1982

CHAPTER 1051

REGULATION OF INSURANCE COMPANIES OTHER THAN LIFE

H.F. 2358

AN ACT relating to the regulation of insurance to the extent of amending or repealing provisions in Code sections 515.34, 515.35, 515B.5, 521A.2 and 521A.3 to provide for the regulation of the investments of insurance companies other than life, to modify the maximum liability of the Iowa insurance guaranty association, and to remove certain provisions regulating insurance holding companies.

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

Section 1. Section 515.35, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 169, section 1, is amended by striking the section and inserting in lieu thereof the following:

515.35 INVESTMENTS.

1. GENERAL CONSIDERATIONS. The following considerations apply in the interpretation of this section:

a. This section applies to the investments of insurance companies other than life insurance companies.

b. The purpose of this section is to protect and further the interests of policyholders, claimants, creditors, and the public by providing standards for the development and administration of programs for the investment of the assets of companies organized under this chapter. These standards, and the investment programs developed by companies, shall take into account the safety of the company's principal, investment yield and growth, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs, and investment diversification.

c. Financial terms relating to insurance companies have the meanings assigned to them under statutory accounting methods. Financial terms relating to companies other than insurance companies have the meanings assigned to them under generally accepted accounting principles.

d. Investments shall be valued in accordance with the valuation procedures established by the national association of insurance commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

e. If an investment qualifies under more than one subsection, a company may elect to hold the investment under the subsection of its choice. This section does not prevent a company from electing to hold an investment under a subsection different from the one under which it previously held the investment.

2. DEFINITIONS. For purposes of this section:

a. "Admitted assets", for purposes of computing percentage limitations on particular types of investments, means the assets which are authorized to be shown on the national association of insurance commissioner's annual statement blank as admitted assets as of the December 31 immediately preceding the date the company acquires the investment.

b. "Clearing corporation" means as defined in section 554.8102, subsection 3.

c. "Custodian bank" means as defined in section 554.8102, subsection 4.

d. "Issuer" means as defined in section 554.8201.

e. "Member bank" means a national bank, state bank, or trust company which is a member of the United States federal reserve system.

f. "National securities exchange" means an exchange registered under section 6 of the Securities Exchange Act of 1934 or an exchange regulated under the laws of the Dominion of Canada.

g. "Obligations" includes bonds, notes, debentures, transportation equipment certificates, domestic repurchase agreements, and obligations for the payment of money not in default as to payments of principal and interest on the date of investment, which constitute general obligations of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment of principal and interest on the obligations. A lease is an obligation if the lease is assigned to the insurer and is nonterminable by the lessee upon foreclosure of any lien upon the leased property, and if rental payments are sufficient to amortize the investment over the primary lease term.

3. INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.

a. A company's investments shall be held in its own name or the name of its nominee, except as follows:

(1) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either on the following conditions:

(i) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others.

(ii) When the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit.

(iii) If a clearing corporation is to act as depository, the investment may be merged or held in bulk in the name of the clearing corporation or its nominee with other investments deposited with the clearing corporation by any other person, if a written agreement between the clearing corporation and the company provides that adequate evidence of the deposit is to be obtained and retained by the company or a custodian bank.

(2) A company may loan stocks or obligations held by it under this chapter to a broker-dealer registered under the Securities and Exchange Act of 1934 or a member bank. The loan must be evidenced by a written agreement which provides all of the following:

(i) That the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality of the United States, and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

(ii) That the loan may be terminated by the company at any time, and that the borrower will return the loaned stocks or obligations or equivalent stocks or obligations within five business days after termination.

(iii) That the company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement, and that the borrower remains liable for any losses and expenses incurred by the company due to default that are not covered by the collateral.

(3) A company may participate through a member bank in the United States federal reserve book-entry system, and the records of the member bank shall at all times show that the investments are held for the company or for specific accounts of the company.

(4) An investment may consist of an individual interest in a pool of obligations or a fractional interest in a single obligation if the certificate of participation or interest or the confirmation of participation or interest in the investment is issued in the name of the company or the name of the custodian bank or the nominee of either and if the interest as evidenced by the certificate or confirmation is, if held by a custodian bank, kept separate and apart from the investments of others so that at all times the participation may be identified as belonging solely to the company making the investment.

(5) Transfers of ownership of investments held as described in paragraph a, subparagraph (1), subdivision (iii), and subparagraphs (3) and (4) may be evidenced by bookkeeping entry on the books of the issuer of the investment, its transfer or recording agent, or the clearing corporation without physical delivery of certificate, if any, evidencing the company's investment.

b. Except as provided in paragraph a, subparagraph (5), if an investment is not evidenced by a certificate, adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this paragraph, means a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company.

4. INVESTMENTS. Except as otherwise permitted by this section, a company organized under this chapter may invest in the following and no other:

a. UNITED STATES GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by the United States or an agency or instrumentality of the United States.

b. CERTAIN DEVELOPMENT BANK OBLIGATIONS. Obligations issued or guaranteed by the international bank for reconstruction and development, the Asian development bank, the inter-American development bank, the export-import bank, the world bank, or any United States government-sponsored organization of which the United States is a member, if the principal and interest is payable in United States dollars. A company shall not invest more than five percent of its total admitted assets in the obligations of any one of these banks or organizations, and shall not invest more than a total of ten percent of its total admitted assets in the obligations authorized by this paragraph.

c. STATE OBLIGATIONS. Obligations issued or guaranteed by a state of the United States, or a political subdivision of a state, or an instrumentality of a state or political subdivision of a state.

d. CANADIAN GOVERNMENT OBLIGATIONS. Obligations issued or guaranteed by the Dominion of Canada, or by an agency or province of Canada, or by a political subdivision of a province, or by an instrumentality of any of those provinces or political subdivisions.

e. CORPORATE AND BUSINESS TRUST OBLIGATIONS. Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state of the United States, or the laws of Canada or a province of Canada, provided that a company shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust.

f. STOCKS. A company may invest in common stocks, common stock equivalents, mutual fund shares, securities convertible into common stocks or common stock equivalents, or preferred stocks issued or guaranteed by a corporation incorporated under the laws of the United States or a state of the United States, or the laws of Canada or a province of Canada.

(1) Stocks purchased under this section shall not exceed one hundred percent of capital and surplus. With the approval of the commissioner, a company may invest any amount in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(2) A company shall not invest more than ten percent of its capital and surplus in the stocks of any one corporation.

g. REAL ESTATE MORTGAGES. Mortgages and other interest-bearing securities that are first liens upon real estate located within this state or any other state of the United States. However, a mortgage or other security does not qualify as an investment under this paragraph if at the date of acquisition the total indebtedness secured by the lien exceeds seventy-five percent of the value of the property that is subject to the lien. Improvements shall not be considered in estimating value unless the owner contracts to keep them insured during the life of the loan in one or more reliable fire insurance companies authorized to transact business in this state and for a sum at least equal to the excess of the loan above seventy-five percent of the value of the ground, exclusive of improvements, and unless this insurance is payable in case of loss to the company investing its funds as its interest may appear at the time of loss. For the purpose of this section, a lien upon real estate shall not be held or construed to be other than a first lien by reason of the fact that drainage or other improvement assessments have been levied against the real estate covered by the lien, whether or not the installment of the assessments have matured, but in determining the value of the real estate for loan purposes the amount of drainage or other assessment tax that is unpaid shall be first deducted.

h. REAL ESTATE.

(1) Except as provided in subparagraphs (2), (3) and (4) of this paragraph, a company may acquire, hold, and convey real estate only as follows:

(i) Real estate mortgaged to it in good faith as security for loans previously contracted, or for moneys due.

(ii) Real estate conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(iii) Real estate purchased at sales on judgments, decrees, or mortgages obtained or made for debts previously contracted in the course of its dealings.

(iv) Real estate subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make under the contract.

All real estate specified in subdivisions (i), (ii), and (iii) of this subparagraph shall be sold and disposed of within three years after the company acquires title to it, or within three years after the real estate ceases to be necessary for the accommodation of the company's business, and the company shall not hold any of those properties for a longer period unless the company elects to hold the property under another paragraph of this section, or unless the company procures a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale of those properties and that the time for the sale is extended to the time the commissioner directs in the certificate.

(2) A company may acquire, hold, and convey real estate as required for the convenient accommodation and transaction of its business.

(3) A company may acquire real estate or an interest in real estate as an investment for the production of income, and may hold, improve, or otherwise develop, subdivide, lease, sell, and convey real estate so acquired directly or as a joint venture or through a limited or general partnership in which the company is a partner.

(4) A company may also acquire and hold real estate if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this paragraph, and if the company expects the real estate so acquired to qualify under subparagraph (2) or (3) of this paragraph within three years after acquisition.

(5) A company may, after securing the written approval of the commissioner, acquire and hold real estate for the purpose of providing necessary living quarters for its employees. However, the company shall dispose of the real estate within three years after it has ceased to be necessary for that purpose unless the commissioner agrees to extend the holding period upon application by the company.

(6) A company shall not invest more than twenty-five percent of its total admitted assets in real estate. The cost of a parcel of real estate held for both the accommodation of business and for the production of income shall be allocated between the two uses annually. A company shall not invest more than ten percent of its total admitted assets in real estate held under subparagraph (3) of this paragraph.

(7) A company is not required to divest itself of real estate assets owned or contracted for prior to the effective date of this Act in order to comply with the limitations established under this paragraph.

i. FOREIGN INVESTMENTS. Obligations of and investments in foreign countries, as follows:

(1) A company may acquire and hold other investments in foreign countries that are required to be held as a condition of doing business in those countries.

(2) A company may invest not more than two percent of its admitted assets in the obligations of foreign governments, corporations, or business trusts, or in the stocks or stock equivalents of foreign corporations or business trusts and then only if the obligations, stocks, or stock equivalents are regularly traded on the New York, London, Paris, Zurich, Hong Kong, Toronto, or Tokyo stock exchange, or a similar exchange approved by the commissioner by rule or order.

j. PERSONAL PROPERTY UNDER LEASE. Personal property for intended lease or rental by the company in the United States or Canada. A company shall not invest more than five percent of its admitted assets under this paragraph.

k. COLLATERAL LOANS. Obligations secured by the pledge of an investment authorized by paragraphs a through j, subject to the following conditions:

(1) The pledged investment shall be legally assigned or delivered to the company.

(2) The pledged investment shall at the time of purchase have a market value of at least one hundred ten percent of the amount of the unpaid balance of the obligations.

(3) The company shall reserve the right to declare the obligation immediately due and payable if at any time after purchase the security depreciates to the point where the investment would not qualify under subparagraph (2) of this paragraph. However, additional qualifying security may be pledged to allow the investment to remain qualified.

l. OPTIONS TRANSACTIONS.

(1) A domestic fire and casualty company may only engage in the following transactions in options on an exchange and only when in accordance with the rules of the exchange on which the transactions take place:

(i) The sale of exchange-traded covered options.

(ii) The purchase of exchange-traded covered options solely in closing purchase transactions.

(2) The commissioner shall adopt rules pursuant to chapter 17A regulating option sales under this subparagraph.

m. OTHER INVESTMENTS.

(i) A company organized under this chapter may invest up to one percent of its admitted assets in securities or property of any kind, without restrictions or limitations except those imposed on business corporations in general.

(ii) A company organized under this chapter may invest its assets in any additional forms not specifically included in paragraphs a through n when authorized by rules adopted by the commissioner.

n. RULES. The commissioner may adopt rules pursuant to chapter 17A to carry out the purposes and provisions of this section.

Sec. 2. Section 515B.5, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. Be obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within thirty days after the determination of insolvency, or before the policy expiration date if less than thirty days after the determination, or before the insured replaces the policy or on request effects cancellation if ~~he~~ the insured does so within thirty days of the determination. ~~Such~~ This obligation shall include only that amount of each covered claim which is in excess of one hundred dollars and less than ~~three~~ five hundred thousand dollars, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the ~~face amount~~ specified limits of the policy from which the claim arises.

Sec. 3. Section 521A.2, subsection 3, paragraph a, Code 1981, is amended to read as follows:

a. Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed ~~the lesser of ten percent of such insurer's assets or~~ fifty percent of ~~such~~ the insurer's surplus as regards policyholders, provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments both of the following shall be included:

Sec. 4. Section 521A.3, subsection 4, paragraph a, subparagraph (3), Code 1981, is amended to read as follows:

(3) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders ~~or the interests of any remaining securityholders who are unaffiliated with such acquiring party~~.

Sec. 5. Section 521A.3, subsection 4, paragraph a, subparagraph (4), Code 1981, ~~is~~ is amended by striking the subparagraph.

Sec. 6. Section 521A.3, subsection 6, paragraph a, Code 1981, is amended by striking the paragraph.

Sec. 7. Section 515.34, Code 1981, is repealed.

Approved March 26, 1982

CHAPTER 1052

TRANSFER OF MINOR'S MONEYS AND ASSETS TO CUSTODIAN

H.F. 2345

AN ACT relating to the transfer of certain moneys and assets to parents or other persons having custody of minors.

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

Section 1. Section 633.108, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 193, section 1, is amended to read as follows:

633.108 SMALL LEGACIES TO MINORS—PAYMENT. Whenever a minor becomes entitled under the terms of a will to a bequest or legacy, to a share of the estate of an intestate, or to a beneficial interest in a trust fund upon the distribution of the trust fund, and the value of the bequest, legacy, share, or interest does not exceed the sum of four thousand dollars, and a conservator for the minor has not been appointed, the court having jurisdiction of the distribution of the funds may, in its discretion, upon the application of the fiduciary, enter an order authorizing the fiduciary to pay the bequest, legacy, share or interest to the ~~parents of the minor, or to the person with whom the minor resides~~ parent or other person entitled to the custody of the minor, for the use of the minor. The receipt of the person or persons therefor, when presented to the court or filed with the report of distribution of the fiduciary, shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 2. Section 633.574, Code 1981, is amended to read as follows:

633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP. If ~~no~~ a conservator has not been appointed, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate ~~the sum of one~~ four thousand dollars in value, may be paid or delivered to ~~a~~ the parent ~~of the minor who is~~ or other person entitled to the custody of ~~such~~ the minor, for the use of the minor, upon written statement verified by the oath of ~~such~~ the parent, that all money or property of ~~such~~ the minor does not exceed in the aggregate ~~the sum of one~~ four thousand dollars; ~~and the~~. The written receipt of ~~such~~ the parent shall constitute an acquittance of the person making ~~such~~ the payment of money or delivery of ~~such~~ property.

Sec. 3. Section 633.681, Code 1981, is amended to read as follows:

633.681 ASSETS OF MINOR WARD EXHAUSTED. ~~Whenever~~ When the assets of a minor ward's conservatorship are exhausted or consist of personal property only of an aggregate value not in excess of ~~one~~ four thousand dollars, the court, upon application or upon its own motion, may terminate the conservatorship and direct the conservator to deliver ~~such~~ the property to the parent or other person ~~having~~ entitled to the custody of the minor ward, for the use of ~~such~~ the ward, after payment of allowed claims and expenses of administration. Such delivery shall have the same force and effect as if delivery had been made to the ward after ~~he attains his~~ attaining majority.

Approved March 26, 1982

CHAPTER 1053

ADJUSTED GROSS ESTATE DEFINED

H.F. 2349

AN ACT relating to the definition of adjusted gross estate.

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

Section 1. Chapter 633, Code 1981, is amended by adding the following new section in division VI, part 1:

NEW SECTION. ADJUSTED GROSS ESTATE. Unless otherwise defined, "adjusted gross estate" in a will means the entire value of the gross estate as determined under the federal estate tax less the aggregate amount of the deductions allowed by sections 2053 and 2054 of the Internal Revenue Code of 1954 as amended to and including January 1, 1982.

Sec. 2. Chapter 682, Code 1981, is amended by adding the following new section:

NEW SECTION. ADJUSTED GROSS ESTATE DEFINED. Unless otherwise defined, "adjusted gross estate" in an express trust not being administered in the probate court means the entire value of the gross estate as determined under the federal estate tax less the aggregate amount of the deductions allowed by sections 2053 and 2054 of the Internal Revenue Code of 1954 as amended to and including January 1, 1982.

Approved March 26, 1982

CHAPTER 1054

RECORDING OF REAL PROPERTY CONVEYANCES

S.F. 397

AN ACT relating to the recording of real property conveyance pursuant to probate or marriage dissolution decrees.

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

Section 1. Section 598.21, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the court orders a transfer of title to real property, the clerk of court shall issue a certificate under chapter 558 relative to each parcel of real estate affected by the order and immediately deliver the certificate for recording to the county recorder and the county auditor of the county in which the real estate is located. Any

fees assessed shall be included as part of the court costs, however, the certificates shall be recorded whether the costs are paid or not.

Sec. 2. Section 633.480, Code 1981, is amended to read as follows:

633.480 CERTIFICATE TO COUNTY AUDITOR AND COUNTY RECORDER FOR TAX PURPOSES WITH ADMINISTRATION. After the entry of the order approving the final report or after discharge as provided in section 633.479, the clerk shall issue a certificate under ~~the provisions of~~ chapter 558 relative to each parcel of real estate described in the final report of the personal representative which has not been sold by the personal representative, and deliver ~~such~~ the certificate to the county auditor and the county recorder of the county in which ~~such~~ the real estate is situated.

Sec. 3. Section 633.481, Code 1981, is amended to read as follows:

633.481 CERTIFICATE TO COUNTY AUDITOR AND COUNTY RECORDER FOR TAX PURPOSES WITHOUT ADMINISTRATION. Whenever an inventory or report is filed under ~~the provisions of~~ section 450.22, without administration of the estate of a decedent, the clerk shall issue and deliver to the county auditor and the county recorder of the county in which the real estate is situated a like certificate pertaining to each parcel of real estate described in the inventory or report. Any fees for certificates or recording fees required by this section or section 633.480 shall be assessed as costs of administration, but the certificates shall be filed whether fees are paid or not.

Approved March 29, 1982

CHAPTER 1055

TORT CLAIM ACTIONS AGAINST THE STATE

S.F. 490

AN ACT to allow tort claim actions against the state to be tried before a jury.

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

Section 1. Section 25A.4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The district court of the state of Iowa for the district in which the plaintiff is resident or in which the act or omission complained of occurred, or where the act or omission occurred outside of Iowa and the plaintiff is a nonresident, the Polk county district court~~, sitting without a jury, shall have~~ has exclusive jurisdiction to hear, determine, and render judgment on any suit or claim as defined in this chapter. However, the laws and rules of civil procedure of this state on change of place of trial ~~shall~~ apply to such suits.

Sec. 2. This Act applies to claims accruing on or after the effective date of this Act.

Approved March 29, 1982

CHAPTER 1056

OVERALL LENGTH OF HIGHWAY VEHICLES

S.F. 2134

AN ACT permitting the movement of certain semitrailers or combinations of vehicles on the highways including combinations of vehicles coupled together used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis and boats if the overall length of the combination of vehicles does not exceed sixty-five feet and semitrailers with a distance of not more than forty feet between the kingpin and the rearmost axle and defining special truck.

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

Section 1. Section 321.1, subsection 71, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, Second Extraordinary 1981 Session, chapter 2, section 5, is amended to read as follows:

71. A "special truck" means a motor truck not used for hire with a gross weight registration of eight through twenty tons used by a person engaged in farming to transport commodities produced only by the owner, or to transport commodities purchased by the owner for use in the owner's own farming operation or occasional use for charitable purposes. "Special truck" also means a truck tractor which is modified by removal of a fifth wheel and carries the full load on the motor truck and which by reason of its conversion becomes a motor truck.

Sec. 2. Section 321.457, subsection 5, Code 1981, is amended to read as follows:

5. Combinations of vehicles coupled together which are used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, and boats ~~may be permitted to extend the load up to three feet beyond the front and rear bumpers of the transporting vehicle when the overall length of the vehicle with load does~~ shall not exceed sixty-five feet in overall length.

Sec. 3. Section 321.457, subsection 8, Code 1981, is amended to read as follows:

8. A semitrailer shall not have ~~a total length of more than forty-five feet nor~~ a distance between the kingpin and the center of the rearmost axle of a semitrailer in excess of forty feet, except a semitrailer used principally for hauling livestock, a semitrailer used exclusively for the purposes of hauling self-propelled industrial and construction equipment, or a semitrailer used exclusively for the purposes described in subsection 5 of this section. ~~A nonexempt semitrailer in excess of forty-five feet in length which is a 1980 or older model year may be operated on the highways of this state if a special overlength permit is obtained from the department for the vehicle.~~ A semitrailer which is a 1980 or older model having a distance between the kingpin and center of the rearmost axle of more than forty feet may be operated on the highways of this state if a special overlength permit is obtained from the department for the vehicle. The special overlength permit shall be valid until such time as the semitrailer is inoperable.

Approved March 29, 1982

CHAPTER 1057

STATE INCOME TAX REFUND SETOFFS

S.F. 2180

AN ACT relating to setoffs against state income tax refunds, including claims based on defaults on guaranteed student loans and child support recovery claims, and authorizing reciprocal agreements with other states dealing with the subject matter.

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

Section 1. Section 261.37, subsection 7, Code 1981, is amended to read as follows:

7. To establish an effective system for the collection of delinquent loans, including the adoption of an agreement with the Iowa department of revenue to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan made under this division. The commission shall adopt rules under chapter 17A necessary to assist the department of revenue in the implementation of the student loan setoff program as established under section 421.17 in section 2 of this Act.

Sec. 2. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To establish and maintain a procedure to set off against a defaulter's income tax refund or rebate the amount that is due because of a default on a guaranteed student or parental loan under chapter 261. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department of revenue shall be satisfied except that a refund or rebate shall not be credited against tax liabilities which are not yet due.

b. Before setoff the college aid commission shall obtain and forward to the department of revenue the full name and social security number of the defaulter. The department of revenue shall cooperate in the exchange of relevant information with the college aid commission.

c. The college aid commission shall, at least annually, submit to the department of revenue for setoff the guaranteed student loan defaults, which are at least fifty dollars, on a date or dates to be specified by the college aid commission by rule.

d. Upon submission of a claim, the department of revenue shall notify the college aid commission whether the defaulter is entitled to a refund or rebate of at least fifty dollars and if so entitled shall notify the commission of the amount of the refund or rebate and of the defaulter's address on the income tax return. Section 422.72, subsection 1, does not apply to this paragraph.

e. Upon notice of entitlement to a refund or rebate, the college aid commission shall send written notification to the defaulter, and a copy of the notice to the department of revenue, of the commission's assertion of its rights to all or a portion of the defaulter's refund or rebate and the entitlement to recover the amount of the default through the setoff procedure, the basis of the assertion, the defaulter's opportunity to request that a joint income tax refund or rebate be divided between spouses, the defaulter's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing before a specified date will result in a waiver of the opportunity to contest the claim,

causing final setoff by default. Upon application, the commission shall grant a hearing pursuant to chapter 17A. An appeal taken from the decision of a hearing officer and any subsequent appeals shall be taken pursuant to chapter 17A.

f. Upon the timely request of a defaulter or a defaulter's spouse to the college aid commission and upon receipt of the full name and social security number of the defaulter's spouse, the commission shall notify the department of revenue of the request to divide a joint income tax refund or rebate. The department of revenue shall upon receipt of the notice divide a joint income tax refund or rebate between the defaulter and the defaulter's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department of revenue shall, after notice has been sent to the defaulter by the college aid commission, set off the amount of the default against the defaulter's income tax refund or rebate if both the amount of the default and the refund or rebate are at least fifty dollars. The department shall refund any balance of the income tax refund or rebate to the defaulter. The department of revenue shall periodically transfer the amount set off to the college aid commission. If the defaulter gives written notice of intent to contest the claim, the commission shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The commission shall notify the defaulter in writing upon completion of setoff.

Sec. 3. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To enter into reciprocal agreements with the departments of revenue of other states that have enacted legislation, that is substantially equivalent to the setoff procedure in section 2 of this Act. A reciprocal agreement shall also be approved by the college aid commission. The agreement shall authorize the department to provide by rule for the setoff of state income tax refunds or rebates of defaulters from states with which Iowa has a reciprocal agreement and to provide for sending lists of names of Iowa defaulters to the states with which Iowa has a reciprocal agreement for setoff of that state's income tax refunds.

Sec. 4. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To provide that in the case of multiple claims to refunds or rebates filed by the child support recovery unit under subsection 21 and the college aid commission under section 2 of this Act, that priority shall be given to claims filed by the child support recovery unit under subsection 21.

Approved March 29, 1982

CHAPTER 1058

PAYMENT OF EXPENSES OF MERGED AREAS

S.F. 2068

AN ACT relating to payment of expenses by boards of directors of merged areas.

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

Section 1. Chapter 280A, Code 1981, is amended by adding the following new section:

NEW SECTION. PAYMENT OF EXPENSES. The board of directors of a merged area shall audit and allow all just claims against the area school and an order shall not be drawn upon the treasury until the claim has been audited and allowed. However, the board of directors, by resolution, may authorize the secretary of the board, when the board is not in session, to issue payments for salaries pursuant to the terms of a written contract and to issue payments upon the receipt of verification filed with the secretary for expenses for freight; drayage; express; postage; printing; utilities including electricity, water, waste collection, heating, air conditioning, telephone, and telegraph charges; expenses involving auxiliary, agency, and scholarship and loan accounts; and refunds to students for tuition and fees. The secretary shall either deliver in person or mail the payments to the payees. A payment shall be made payable only to the person performing the service or furnishing the supplies for which the payment is issued. Payments issued prior to audit and allowance by the board shall be allowed by the board at the first meeting held after the issuance and shall be entered in the minutes of the meeting.

Approved April 5, 1982

CHAPTER 1059

AUDITING OF CLAIMS OF MERGED AREAS

S.F. 2077

AN ACT relating to the auditing of claims by a board of directors of a merged area.

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

Section 1. Chapter 280A, Code 1981, is amended by adding the following new section:

NEW SECTION. CLAIMS. The board of directors of each merged area shall audit claims against the merged area to ensure proper and just payment of all claims. Each payment shall be made payable to the vendor entitled to receive the payment with appropriate justification to ensure that the payment is in accordance with generally accepted accounting principles and procedures and in accordance with the system prescribed under section 280A.25, subsection 10. The board may designate one or more members of the board or may employ a certified public accountant to perform and certify the audit to the board to comply with this section.

Approved April 5, 1982

CHAPTER 1060

ATTORNEYS ASSISTING FIDUCIARY OF AN ESTATE

S.F. 2223

AN ACT relating to the designation of attorneys employed to assist a fiduciary of an estate.

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

Section 1. Section 633.82, Code 1981, is amended to read as follows:

633.82 DESIGNATION OF ATTORNEY. The designation of the attorney ~~or attorneys~~ employed by the fiduciary to assist ~~him~~ in the administration of the estate shall be filed in ~~said~~ the estate proceedings. ~~Such~~ The designation shall state the attorney's name ~~and~~, post-office address, and telephone number. The designation shall clearly state the name of the attorney who is in charge of the case and the attorney's name shall not be listed by firm name only.

Approved April 5, 1982

CHAPTER 1061

PUBLICATION AND CITATION OF COURT RULES, STATUTES, AND ACTS OF GENERAL ASSEMBLY

S.F. 2250

AN ACT relating to the manner of publication of various court rules in the Code or a supplement to the Code and the manner of citing the Code or a supplement to the Code or the Acts.

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

Section 1. Section 14.6, subsection 4, Code 1981, is amended to read as follows:

4. Prepare and cause to be published, at ~~such~~ times ~~as~~ and in the manner the supreme court ~~shall by order direct~~ specifies after consultation with the legislative council, the rules of civil procedure, the rules of criminal procedure, the rules of appellate procedure, and other rules prescribed by the supreme court ~~rules~~.

Sec. 2. Section 14.12, subsection 6, paragraph j, Code 1981, is amended by striking the paragraph.

Sec. 3. Section 14.12, subsection 6, paragraph k, Code 1981, is amended to read as follows:

k. An index covering the Constitution and statutes of the state of Iowa and, to the extent the rules are printed in the Code, ~~the rules of the supreme court,~~ rules of civil procedure, rules of criminal procedure, ~~and~~ rules of appellate procedure, and other rules prescribed by the supreme court.

Sec. 4. Section 14.12, Code 1981, is amended by adding after subsection 6 the following new subsection:

NEW SUBSECTION. The rules of civil procedure, rules of criminal procedure, or rules of appellate procedure, and other rules prescribed by the supreme court shall be published either in the Code or a supplement to the Code in a manner specified by the supreme court after consultation with the legislative council. The publication as provided in section 14.21 may be made in lieu of a Code or supplement publication for all or a portion of the various rules if specified by the supreme court after consultation with the legislative council. In determining the manner of publication consideration shall be given to whether specific rules are subject to change by submission to the general assembly or by order of the court.

Sec. 5. Section 14.17, Code 1981, is amended to read as follows:

14.17 CITATION OF PERMANENT CODE OR SUPPLEMENTS. The permanent Codes or supplements thereto published subsequent to the adjournment of the ~~extra~~ 1982 regular session of the ~~Fortieth~~ Sixty-ninth General Assembly shall be known and cited as ~~"The Code ....."~~, ~~or "supplement to the Code ....."~~, ~~giving year of edition of such Code or supplement thereto~~ "Iowa Code chapter (or section) ..... ", or "Iowa Code supplement Chapter (or section)", inserting the appropriate chapter or section number and year of edition.

Sec. 6. Section 14.18, Code 1981, is amended to read as follows:

14.18 CITATION OF SESSION LAWS. The session laws of each general assembly shall be known ~~and cited~~ as "..... ~~Session~~ Acts of the ..... General Assembly, ... Session, Chapter (or File No.) ....., Section ....." (inserting the appropriate number) and shall be cited as " ..... Iowa Acts, chapter ....., section ...." (inserting the appropriate year, chapter, or section number).

Approved April 5, 1982

CHAPTER 1062

REGISTRATION OF MOTOR VEHICLES

H.F. 808

AN ACT relating to the registration of motor vehicles, with a December 1, 1983 effective date.

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

Section 1. Section 321.1, subsection 71, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, Second Extraordinary 1981 Session, chapter 2, section 5, is amended to read as follows:

71. A "special truck" means a motor truck not used for hire with a gross weight registration of ~~eight~~ six through twenty tons used by a person engaged in farming to transport commodities produced only by the owner, or to transport commodities purchased by the owner for use in the owner's own farming operation or occasional use for charitable purposes.

Sec. 2. Section 321.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Registration year" means the period of twelve consecutive months beginning on the first day of the month following the month of the birth of the owner of the vehicle for vehicles registered by the county treasurer and the calendar year for vehicles registered by the department or vehicles with a combined gross weight exceeding five tons which are registered by the county treasurer and mobile homes.

Sec. 3. Section 321.24, Code 1981, is amended by inserting after unnumbered paragraph 1 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A vehicle shall be registered for the registration year. A vehicle registered for the first time in this state shall be registered for the remaining unexpired months of the registration year and pay a registration fee prorated for the remaining unexpired months of the registration year.

Sec. 4. Section 321.34, subsection 3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

In lieu of issuing new registration plates each registration year for a vehicle renewing registration, the department may reassign the registration plates previously issued to ~~such~~

the vehicle and may adopt and prescribe ~~an~~ annual validation ~~sticker~~ stickers indicating payment of registration ~~fee, which annual validation sticker shall be attached to said registration plates bearing the numerals indicating the year for which the original plates are validated~~ fees. The department shall issue two validation stickers for each registration plate. One sticker shall specify the year of expiration of the registration period. The second sticker shall specify the month of expiration of the registration period. The month of registration shall not be required on registration plates or validation stickers issued for vehicles registered under chapter 326.

Sec. 5. Section 321.39, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

321.39 EXPIRATION OF REGISTRATION. Except as provided in this chapter every vehicle registration, registration card, and registration plate shall expire as follows:

1. For vehicles registered under chapter 326 and any motor truck, truck tractor, or road tractor registered for a combined gross weight exceeding five tons, at midnight on the last day of December of each year.

2. For vehicles registered by the county treasurer, at midnight on the last day of the registration year.

3. For vehicles on which the first installment of an annual fee has been paid, at midnight on the last day of June; for vehicles on which the second installment of an annual fee has been paid, at midnight on the last day of December.

4. For vehicles registered without payment of fees as provided in section 321.19, when designated by the department.

5. For mobile homes, at midnight on the last day of June and December each year.

Registration for every vehicle registered by the county treasurer shall expire upon transfer of ownership.

Sec. 6. Section 321.40, unnumbered paragraph 1, Code 1981, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

Application for renewal of a vehicle registration shall be made on or after the first day of the month of expiration of registration and up to and including the last day of the month following the month of expiration of registration. The registration shall be renewed upon payment of the appropriate registration fee.

Sec. 7. Section 321.40, unnumbered paragraph 3, Code 1981, is amended by striking the unnumbered paragraph.

Sec. 8. Section 321.46, Code 1981, is amended to read as follows:

321.46 NEW TITLE AND REGISTRATION UPON TRANSFER OF ~~REGISTRATION~~ OWNERSHIP.

1. The transferee shall within seven calendar days after purchase or transfer apply for and obtain from the county treasurer of the person's residence, or if a nonresident, the county treasurer of the county where the primary users of the vehicle are located or the county where all other vehicles owned by the nonresident are registered, a ~~transfer of~~ new registration and a new certificate of title for ~~such~~ the vehicle except as provided in section 321.48. The transferee shall present with the application the certificate of title endorsed and assigned by the previous owner and the signed registration card or other evidence of current registration as required by the department. The transferee shall be required to list a motor vehicle license number as part of the application for a registration transfer and a new title. The motor vehicle license number shall not be the social security number of the transferee unless requested by the transferee.

2. Upon filing the application for a new registration ~~transfer~~ and a new title, the applicant shall pay a title fee of two dollars and a registration fee prorated for the remaining unexpired months of the registration year. The county treasurer, if satisfied of the genuineness and regularity of the application and that applicant has complied with all the requirements of this chapter, shall ~~forthwith~~ issue a new certificate of title and registration card to the purchaser or transferee, shall cancel the prior registration for the vehicle, and shall forward the necessary copies to the department on the date of issuance, as prescribed in section 321.24.

3. The applicant shall be entitled to a credit for that portion of the registration fee of the vehicle sold, traded, or junked within the state which had not expired prior to the transfer of ownership of the vehicle. The registration fee for the new registration for the vehicle acquired shall be reduced by the amount of the credit. The credit shall be computed on the basis of the number of months remaining in the registration year, rounded to the nearest whole dollar. The credit shall be subject to the following limitations:

a. The credit shall be claimed within thirty days from the date the vehicle for which credit is granted was sold, transferred, or junked. After thirty days, all credits shall be disallowed.

b. Any credit granted to the owner of a vehicle which has been sold, traded, or junked may only be claimed by that person toward the registration fee for another vehicle purchased and the credit may not be sold, transferred, or assigned to any other person.

c. When the amount of the credit is computed to be an amount of less than five dollars, a credit shall be disallowed.

d. To claim a credit for the unexpired registration fee on a junked vehicle, the county treasurer shall disallow any claim for credit unless the owner presents a junking certificate or other evidence as required by the department to the county treasurer.

e. A credit shall not be allowed to any person who is eligible to receive a refund, upon proper application, under section 321.126.

f. The credit shall only be allowed if the owner provides the copy of the registration receipt to the county treasurer.

g. The credit allowed shall not exceed the amount of the registration fee for the vehicle acquired. If the registration fee upon application is delinquent, the applicant shall be required to pay the delinquent fee from the first day the registration fee was due prorated to the month of application for new title.

4. The seller or transferor may file an affidavit on forms prescribed and provided by the department with the county treasurer of the county where the vehicle is registered certifying the sale or transfer of ownership of ~~such~~ the vehicle and the assignment and delivery of the certificate of title for ~~such~~ the vehicle. Upon receipt of ~~such~~ the affidavit the county treasurer shall file ~~such~~ the affidavit with the copy of the registration receipt for ~~such~~ the vehicle on file in ~~his~~ the treasurer's office and on that day ~~he~~ the treasurer shall forward copies of the affidavit to the department and to the county treasurer of the county of residence of the purchaser or transferee. Upon filing ~~such~~ the affidavit it shall be presumed that the seller or transferor has assigned and delivered the certificate of title for ~~such~~ the vehicle.

Sec. 9. Section 321.48, Code 1981, is amended to read as follows:

321.48 VEHICLES ACQUIRED FOR RESALE.

1. When the transferee of a vehicle is a dealer who holds the vehicle for resale and operates the vehicle only for purposes incident to a resale and displays a dealer plate on the vehicle or does not drive such vehicle or permit it to be driven upon the highways, such transferee shall not be required to obtain ~~transfer of~~ a new registration or a new certificate of title but upon transferring title or interest to another person shall execute and acknowledge an assignment and warranty of title upon the certificate of title assigned to the person and deliver the same to the person to whom such transfer is made. The dealer shall also sign the reverse side of the registration card for such vehicle indicating the name and address of the new purchaser.

2. Any foreign registered vehicle purchased or otherwise acquired by a dealer for the purpose of resale shall be issued a certificate of title thereto by the county treasurer of the dealer's residence upon proper application therefor as provided in this chapter and upon payment of a fee of two dollars and such dealer shall be exempt from the payment of any and all registration fees for such vehicle. Such application for certificate of title shall be made within forty-eight hours after said vehicle comes within the border of the state.

3. ~~Whenever a dealer purchases or otherwise acquires a vehicle registered in this state he shall issue a signed receipt to the previous owner, indicating the date of purchase or acquisition, the name and address of such previous owner and the registration number of the vehicle purchased or acquired. The original receipt shall be delivered to the owner on the date of purchase or acquisition and two copies shall be mailed or delivered by the dealer to the county treasurer of his residence within forty-eight hours after purchase or acquisition. The county treasurer shall forward one copy to the department. Forms for such receipts shall be furnished by the department.~~ In a transaction in which a vehicle is traded to a dealer as defined in chapter 322 or chapter 322C toward the purchase price of another vehicle and each vehicle is owned in whole or in part by the same person, the person acquiring the vehicle from the dealer shall be entitled to a credit under section 321.46.

4. Nothing in this section shall be construed to prohibit a dealer from obtaining a new certificate of title ~~and transfer of~~ or new registration in the same manner as other purchasers.

Sec. 10. Section 321.51, subsection 4, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 102, section 2, is amended to read as follows:

4. Except as provided in section 321.52, 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, and the affidavit as provided in subsection 2, and when satisfied as to the genuineness and regularity 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 coded in the manner prescribed by the department and 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 321.51 OF THE CODE OF IOWA." A county treasurer may also issue a restricted certificate of title which is not red in color but shall have the words "RED TITLE" in bold letters and the words "RESTRICTED—CANNOT BE REGISTERED WITHOUT A VALID APPROVED CERTIFICATE OF INSPECTION" stamped on the face of the title in red ink. At the time 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~~. The registration fee shall be prorated for the remaining unexpired months of the registration year. 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. 11. Section 321.70, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

321.70 DEALER VEHICLES. A dealer registered under this chapter shall not be required to register any vehicle owned by the dealer which is being held for sale or trade, provided the registration fee was not delinquent at the time the vehicle was acquired by the dealer. When a dealer ceases to hold any vehicle for sale or trade or the vehicle otherwise becomes subject to registration under this chapter the registration fee and delinquent registration fee, if any, shall be due for the registration year.

Sec. 12. Section 321.105, unnumbered paragraph 1, Code 1981, is amended to read as follows:

An annual registration fee shall be paid for each vehicle operated upon the public highways of this state unless the vehicle is specifically exempted under ~~the provisions of~~ this chapter. If a vehicle, which has been registered for the current registration year, is transferred during the registration year, the transferee shall reregister the vehicle as provided in section 321.46 ~~without payment of an additional annual registration fee~~.

Sec. 13. Section 321.106, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

321.106 REGISTRATION FOR FRACTIONAL PART OF YEAR. When a vehicle is registered under chapter 326 or a motor truck, truck tractor, or road tractor is registered for a combined gross weight exceeding five tons and there is no delinquency and the registration is made in February or succeeding months through November, the registration fee shall be computed on the basis of one-twelfth of the annual registration fee multiplied by the number of unexpired months of the year. A fee shall not be required for the month of December for a vehicle registered on a calendar year basis on which there is no delinquency. A fee shall not be required for the month of the owner's birthday for a vehicle on which there is no delinquency. Whenever any fee computed under this section contains a fractional part of a dollar, the fee shall be computed to the nearest whole dollar. A fee computed under this section shall not be less than five dollars. The fee so computed shall be deemed to be the annual registration fee for the remainder of the registration year.

A reduction in the registration fee shall not be allowed by the department until the applicant files satisfactory evidence to prove that there is no delinquency in registration.

Sec. 14. Section 321.112, Code 1981, is amended to read as follows:

321.112 MINIMUM MOTOR VEHICLE FEE. No motor vehicle, ~~regardless of age,~~ except as provided in ~~section~~ sections 321.115 and 321.117 shall be registered for a ~~full~~ registration year for less than ten dollars.

Sec. 15. Section 321.113, Code 1981, is amended to read as follows:

321.113 AUTOMATIC REDUCTION. After ~~said~~ a motor vehicle ~~has been registered~~ is more than five ~~times~~ model years old, that part of the registration fee which is based on the value of the vehicle shall be:

Seventy-five percent of the rate as fixed when new;

After a motor vehicle is more than six ~~times~~ model years old, fifty percent;

After a motor vehicle is more than eight ~~times~~ model years old, that part of the registration fee based on the value of ~~said~~ the vehicle shall be ten percent. Where the ninth registration fee for a motor vehicle has been computed and fixed by the department prior to July 4, 1949, there shall be added to ~~such~~ the registration fee, in lieu of the ten percent provided for herein, one dollar if such registration fee has been computed and fixed at fifteen dollars or less and two dollars if ~~such~~ the registration fee has been computed and fixed at more than fifteen dollars.

Sec. 16. Section 321.116, Code 1981, is amended to read as follows:

321.116 ELECTRIC AUTOMOBILES. For all electric motor vehicles the annual fee shall be twenty-five dollars. When any electric motor vehicle ~~has been registered~~ which is more than five ~~times~~ model years old the annual registration fee shall be fifteen dollars.

Sec. 17. Section 321.117, Code 1981, is amended to read as follows:

321.117 MOTORCYCLE, AMBULANCE, AND HEARSE FEES. For all motorcycles the annual fee shall be ten dollars. For all motorized bicycles the annual fee shall be five dollars. When ~~said~~ the motorcycle ~~has been registered~~ is more than five ~~times~~ model years old, the annual registration fee shall be five dollars. The annual registration fee for ambulances and hearses shall be fifty dollars. Passenger car plates shall be issued for ambulances and hearses.

Sec. 18. Section 321.121, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, Second Extraordinary 1981 Session, chapter 2, section 6, is amended to read as follows:

321.121 SPECIAL TRUCKS FOR FARM USE. The registration fee for a special truck shall be eighty dollars for a gross weight of six tons, one hundred dollars for a gross weight of seven tons, one hundred twenty dollars for a gross weight of eight tons, and in addition, fifteen dollars for each ton over eight tons and not exceeding eighteen tons. The registration fee for a special truck with a gross weight registration exceeding eighteen tons but not exceeding nineteen tons shall be three hundred twenty-five dollars and for a gross weight registration exceeding nineteen tons but not exceeding twenty tons the registration fee shall be three hundred seventy-five dollars. Any person convicted of using a truck registered as a special truck for any purpose other than permitted by section 321.1, subsection 71, shall, in addition to any other penalty imposed by law, be required to pay regular motor truck registration fees upon such truck.

Sec. 19. Section 321.122, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. For a combined gross weight of three tons or less forty-five dollars and ~~after~~ a vehicle which is more than ten ~~full registrations~~ model years old thirty-five dollars.

Sec. 20. Section 321.123, subsection 1, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Travel trailers and fifth-wheel travel trailers, except those in manufacturer's or dealer's stock, an annual fee of twenty cents per square foot of floor space computed on the exterior overall measurements, but excluding three feet occupied by any trailer hitch as provided by and certified to by the owner, to the nearest whole dollar, which amount shall not be prorated or refunded; except the annual fee for travel trailers of any type, when registered in Iowa for the first time or when removed from a manufacturer's or dealer's stock, shall be prorated on a monthly basis. The registrant of a travel trailer of any type shall be issued a "travel trailer" plate. It is further provided the annual fee thus computed shall be limited to seventy-five percent of the full fee after the ~~sixth registration~~ vehicle is more than six model years old.

Sec. 21. Section 321.124, subsection 3, Code 1981, is amended to read as follows:

3. The annual registration fee for motor homes and multipurpose vehicles is as follows:

a. For class "A" motor homes with a list price of thirty-five thousand dollars or more as certified to the department by the manufacturer, four hundred dollars for ~~the first five registrations~~ registration each year through five model years and three hundred dollars for each succeeding registration.

b. For class "A" motor homes with a list price of twenty thousand dollars or more but less than thirty-five thousand dollars as certified to the department by the manufacturer, one hundred forty dollars for ~~the first five registrations~~ registration each year through five model years and one hundred five dollars for each succeeding registration.

c. For class "A" motor homes with a list price of less than twenty thousand dollars as certified to the department by the manufacturer, one hundred twenty dollars for ~~the first five registrations~~ registration each year through five model years and eighty-five dollars for each succeeding registration.

d. For a class "A" motor home which is a passenger-carrying bus which has been registered at least five times as a motor truck and which has been converted, modified or altered to provide temporary living quarters, ninety dollars for ~~the first ten registrations~~ registration each year through ten model years and sixty-five dollars for each succeeding registration. In computing the number of registrations, the registrations shall be cumulative beginning with the registration of the class "A" motor home as a motor truck prior to its conversion, modification, or alteration to provide temporary living quarters.

e. For class "B" motor homes, ninety dollars for ~~the first five registrations~~ registration each year through five model years and sixty-five dollars for each succeeding registration.

f. For class "C" motor homes, one hundred ten dollars for ~~the first five registrations~~ registration each year through five model years and eighty dollars for each succeeding registration.

g. For multipurpose vehicles, seventy-five dollars for ~~the first five registrations~~ registration each year through five model years and fifty-five dollars for each succeeding registration.

Sec. 22. Section 321.126, unnumbered paragraph 1 and subsections 2, 3, and 4, Code 1981, are amended to read as follows:

Refunds of current registration fees ~~previously~~ paid for the registration of motor vehicles shall be allowed in accordance with this section, except that no refund shall be allowed and paid if the unused portion of the fee is less than five dollars. Subsections 1 and 2 shall not apply to motor vehicles registered by the county treasurer. ~~Such~~ The refunds shall be made as follows:

2. If the motor vehicle is stolen, the owner shall give notice of the theft to the ~~county treasurer~~ department within five days~~, who in turn shall notify the department~~. If the motor vehicle is not recovered by the owner ~~before December 1 of the year for which the registration fee was paid~~ thirty days prior to the end of the current registration year, the owner shall make a statement of the theft and make claim for refund.

3. If the motor vehicle is placed in storage by the owner upon the owner's entry into the military service of the United States, the owner shall return the plates to the county treasurer or the department and make a statement regarding ~~such~~ the storage and military service and make claim for refund. Whenever the owner of a motor vehicle so placed in storage desires to again register ~~such~~ the vehicle, the county treasurer or department shall compute and collect the fees for registration ~~in accordance with section 321.106~~ for the registration year commencing in the month the vehicle is removed from storage.

4. If the motor vehicle is registered by the county treasurer during the current registration year and the owner or lessee registers the vehicle for prorate under chapter 326, the owner of the registered vehicle shall surrender the registration plates to the county treasurer and may file a claim for refund.

Sec. 23. Section 321.126, subsection 1, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

1. If the motor vehicle is destroyed by fire or accident, or junked and its identity as a motor vehicle entirely eliminated, the owner in whose name the motor vehicle was registered at the time of destruction or dismantling shall return the plates to the department and within thirty days thereafter make a statement of such destruction or dismantling and make claim for refund. With reference to the destruction or dismantling of a vehicle, no refund shall be allowed unless a junking certificate has been issued, as provided in section 321.52.

Sec. 24. Section 321.127, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 104, section 1, is amended to read as follows:

321.127 AMOUNT OF REFUND. ~~For December and each succeeding month the~~ The refund for motor vehicles shall be computed on the basis of one-fourth of the annual registration fee multiplied by the number of remaining quarters of the registration year from date of filing of the claim for refund with the county treasurer, computed to the nearest quarter dollar. The department, unless reasonable grounds exist for delay, shall make refund on or before the fifteenth day of the quarter following the quarter in which the claim is filed with the department. For trailers or semitrailers issued a multiyear registration plate a refund shall be paid equal to the annual fee for twelve months times the remaining number of complete ~~calendar~~ registration years. Refunds for motor vehicles registered for prorate under chapter 326 shall be paid on the basis of unexpired complete calendar months remaining from the date the claim is filed with the department.

Sec. 25. Section 321.132, Code 1981, is amended to read as follows:

321.132 WHEN LIEN ATTACHES. The lien of the original registration fee ~~shall attach~~ attaches, at the time the ~~same~~ fee is first payable, as provided by law, and the lien of all renewals of registration ~~shall~~ attach on ~~January 1 of each year thereafter~~ the first day of each succeeding registration year.

Sec. 26. Section 321.134, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

321.134 MONTHLY PENALTY. On the first day of the second month following the beginning of each registration year a penalty of five percent of the annual registration fee shall be added to the registration fees not paid by that date and an additional penalty of five percent shall be added the first day of each succeeding month, until the fee is paid. A penalty shall not be less than five dollars. If the owner of a vehicle surrenders the registration plates for a vehicle prior to the time they expire, to the county treasurer of the county where the vehicle is registered, or to the department if the vehicle is registered under chapter 326, the owner may register the vehicle any time thereafter upon payment of the registration fee for the registration year without penalty. The penalty on vehicles registered under chapter 326 shall accrue February 1 of each year.

The annual registration fee for trucks, truck tractors, and road tractors, as provided in sections 321.121 and 321.122, may be payable in two equal semiannual installments if the annual registration fee exceeds the registration fee for a vehicle with a gross weight exceeding five tons. The penalties provided in the preceding unnumbered paragraph shall be computed on the amount of the first installment only and on the first day of the seventh month of the registration period the same rate of penalty shall apply to the second installment, until the fee is paid. Semiannual installments shall not apply to commercial vehicles subject to proportional registration, with a base state other than the state of Iowa, as defined in section 326.2, subsection 6. The penalty on vehicles registered under chapter 326 shall accrue August 1 of each year.

If a penalty applies to any vehicle registration fee provided for in sections 321.121 and 321.122, the same penalty shall be assessed on the fees collected to increase the registered gross weight of the vehicle, if the increased gross weight is requested within forty-five days from the date the delinquent vehicle is registered for the current registration period.

Sec. 27. Section 321.149, Code 1981, is amended to read as follows:

321.149 BLANKS. The department shall not later than November 15 of each year prepare and furnish the treasurer of each county all blank books, blank forms, and all supplies required for the administration of this chapter, including applications for registration and transfer of vehicles, ~~quadruple~~ quintuple receipts, and original remittance sheets to be used in remitting fees to the department, in such form as the department may prescribe. Contracts for ~~such~~ the

blank books, blank forms, and supplies shall be awarded by the ~~state~~ superintendent of printing ~~board~~ to persons, firms, partnerships, or corporations engaged in the business of printing in Iowa unless, or through them, ~~such~~ the persons, firms, partnerships or corporations cannot provide the required printing set forth in this section. In lieu of purchasing under competitive bids the ~~state~~ superintendent of printing ~~board~~ shall have authority to arrange with the director of the division of corrections of the department of social services to furnish ~~such~~ the supplies as can be made in the state institutions.

Sec. 28. Section 321.166, subsection 2, Code 1981, is amended to read as follows:

2. Every registration plate or pair of plates shall display a registration plate number which shall consist of alphabetical or numerical characters or a combination thereof and the name of this state, which may be abbreviated. Every registration plate issued by the county treasurer shall display the name of the county except plates issued for motor trucks with a combined gross weight exceeding five tons, truck tractors, motorcycles, motorized bicycles, travel trailers, mobile homes, semitrailers and trailers. The year of expiration or the date of expiration shall be displayed on vehicle registration plates, except plates issued under ~~the provisions of~~ section 321.19. Registration plates issued for motor trucks and truck tractors shall be designed in such a manner that the gross weight for which the vehicle is registered may be displayed on the plate. Special truck registration plates shall display the word "special".

Sec. 29. Section 321.166, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. The month of expiration of registration, which may be abbreviated, shall be displayed on vehicle registration plates issued by the county treasurer. A distinctive emblem or validation sticker may be prescribed by the department to designate the month of expiration which shall be attached to the embossed area on the plate located at the lower corners of the registration plate.

Sec. 30. Section 321.167, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

321.167 DELIVERY OF PLATES, STICKERS, AND EMBLEMS. The department, upon requisition by the county treasurer, shall provide vehicle registration plates, validation stickers, and emblems as required for the administration of this chapter. Vehicle registration plates and validation stickers shall be provided to the county treasurer in numerical sequence.

Sec. 31. Section 321.466, subsection 2, Code 1981, is amended by striking the subsection.

Sec. 32. Section 321.466, subsections 3 and 4, Code 1981, are amended to read as follows:

3. ~~On~~ During or after ~~July 1 of each year~~ the seventh month of a current registration year, the owner of a motor truck, truck tractor, road tractor, semitrailer or trailer may, if ~~his~~ the owner's operation ~~thereof~~ has not resulted in a conviction or action pending under this section ~~or an action then pending against him for violation of the same~~, increase the gross ~~load~~ weight of ~~any such~~ the vehicle to a higher gross weight classification by payment of one-twelfth of the difference between the annual fee for the higher gross weight and the amount of the fee for the gross weight at which it is registered, multiplied by the number of unexpired months of the registration year.

4. Upon conversion of a truck to a truck tractor or a truck tractor to a truck, an increased gross weight registration of the proper type may be obtained for ~~any such~~ the vehicle by payment, except as provided in section 321.106, of one-twelfth of the difference between the annual fee for the higher gross weight and the amount of the annual fee for the gross weight at which the vehicle is registered, multiplied by the number of unexpired months of the registration year from the date of ~~such~~ the conversion.

Sec. 33. Section 805.8, subsection 2, paragraph b, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 103, section 9, is amended to read as follows:

b. For registration violations under sections 321.32, 321.34, 321.37, 321.38, and 321.41 the scheduled fine is five dollars. ~~For violations of sections 321.34 and 321.37 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. 34. Chapter 321, Code 1981, is amended by adding the following new section:

NEW SECTION. MULTIPLE REGISTRATION PERIODS AND ADJUSTMENTS.

1. There are established twelve registration periods for the registration of vehicles by the county treasurer. Each registration period shall commence on the first day of each calendar month following the month of the birth of the owner of the vehicle and end on the last day of the twelfth month. Every vehicle registered by the county treasurer shall be registered for a full twelve-month period, except mobile homes that are registered on a semiannual basis, vehicles registered under section 321.24 or 321.46, vehicles registered under chapter 326, and trucks with a gross weight exceeding five tons which may be registered on a semiannual basis.

2. The county treasurer may adjust the renewal or expiration date of vehicles when deemed necessary to equalize the number of vehicles registered in each twelve-month period or for the administrative efficiency of the county treasurer's office. The adjustment shall be accomplished by delivery of a written notice to the vehicle owner of the adjustment and allowance of a credit for the remaining months of the unused portion of the registration fee, rounded to the nearest whole dollar, which amount shall be deducted from the annual registration fee due at the time of registration. Upon receipt of the notification the owner shall, within thirty days, surrender the registration card and registration plates to the county treasurer of the county where the vehicle is registered, except that the registration plates shall not be surrendered if validation stickers or other emblems are used to designate the month and year of expiration of registration. Upon payment of the annual registration fee, less the credit allowed for the remaining months of the unused portion of the registration fee, the county treasurer shall issue a new registration card and registration plates, validation stickers, or emblems which indicate the month and year of expiration of registration.

3. Vehicles subject to registration which are owned by a person other than a natural person shall be registered for a registration year as determined by the county treasurer.

Sec. 35. Chapter 321, Code 1981, is amended by adding the following new section:

NEW SECTION. IMPLEMENTATION OF TWELVE-MONTH REGISTRATION PERIOD. To implement the change from calendar year registration to the system provided for in section 33* of this Act, the vehicles registered by the county treasurer on or after December 1, 1983, shall be registered as follows:

1. Vehicle registrations which are not delinquent may be registered on or after December 1, 1983 up to and including January 31, 1984 without penalty. Registration fees paid on or after February 1, 1984 shall be subject to a penalty equal to five percent of the annual registration fee and an additional penalty of five percent shall be added the first day of each succeeding month, until the fee is paid.

2. Vehicles shall be registered for the registration year as defined in section 2 of this Act. If the registration year of the vehicle is for a period of less than twelve months, the registration fee shall be prorated for the remaining unexpired months, except as provided in subsection 3.

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*Section 34 probably intended.

3. The owner of a vehicle for which the registration year begins on February 1 may elect to register the vehicle for a period of one month or thirteen months. The owner of a vehicle for which the registration year begins on March 1 may elect to register the vehicle for a period of two months or fourteen months. The owner of a vehicle for which the registration year begins on April 1 may elect to register the vehicle for a period of three months or fifteen months.

Sec. 36. Section 27* of this Act which requires the issuance of registration plates which display the name of the county for motor trucks with a combined gross weight of five tons or less and section 28** of this Act which requires an embossed area on the lower corners of the registration plate shall take effect for the next registration year for which the department issues new registration plates and shall apply thereafter.

Sec. 37. Sections 321.69, 321.107, and 321.114, Code 1981, are repealed.

Sec. 38. This Act takes effect December 1, 1983.

Approved April 5, 1982

CHAPTER 1063

MILITARY SERVICE PROPERTY TAX EXEMPTION VIETNAM CONFLICT DATES

H.F. 833

AN ACT changing the beginning and ending dates of the Vietnam Conflict for purposes of the military service property tax exemption.

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

Section 1. Section 427.3, subsection 4, Code 1981, is amended to read as follows:

4. The property, not to exceed one thousand eight hundred fifty-two dollars in taxable value of any honorably separated, retired, furloughed to a reserve, placed on inactive status, or discharged soldier, sailor, marine, or nurse of the second World War from December 7, 1941 to December 31, 1946, army of occupation in Germany from November 12, 1918, to July 11, 1923, American expeditionary forces in Siberia from November 12, 1918, to April 30, 1920, second Nicaraguan campaign with the navy or marines in Nicaragua or on combatant ships 1926-1933, second Haitian suppressions of insurrections 1919-1920, navy and marine operations in China 1937-1939 and Yangtze service with navy and marines in Shanghai or in the Yangtze Valley 1926-1927 and 1930-1932 or of the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, or those who served on active duty during the Vietnam Conflict beginning ~~August 5, 1964~~ December 22, 1961, and ending ~~June 30, 1973~~ May 7, 1975, both dates inclusive, and as defined in section 35C.2.

Approved April 5, 1982

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*Section 28 probably intended.

**Section 29 probably intended.

CHAPTER 1064

TAXATION LUMP SUM DISTRIBUTION OF INCOME UNDER FEDERAL LAW

S.F. 400

AN ACT providing for the taxation of a lump sum distribution of an individual, estate or trust who has elected to have the distribution separately taxed under the Internal Revenue Code of 1954 and providing for a retroactive effective date.

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

Section 1. Section 422.5, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the other taxes imposed by this section, a tax is imposed on the amount of a lump sum distribution for which the taxpayer has elected under section 402(e) of the Internal Revenue Code of 1954 to be separately taxed for federal income tax purposes for the tax year. The rate of tax is equal to twenty-five percent of the separate federal tax imposed on the amount of the lump sum distribution. A nonresident is liable for this tax only on that portion of the lump sum distribution allocable to Iowa. The total amount of the lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining eligibility under the five thousand dollar or less exclusion.

Sec. 2. This Act is retroactive to January 1, 1982 for tax years beginning on or after January 1, 1982.

Approved April 5, 1982

CHAPTER 1065

DEPARTMENT OF HEALTH INSPECTION OF HEALTH CARE FACILITY PLANS

S.F. 24

AN ACT relating to the requirement that plans and specifications for new health care facilities and remodeling of or additions to existing health care facilities be submitted to the department of health for preliminary inspection and approval or recommendations and that the department either waive or pay the costs to correct any deficiencies which were not noted by the department in the plans or specifications.

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

Section 1. Section 135C.16, subsection 2, Code 1981, is amended to read as follows:

2. The department shall prescribe by rule that any licensee or applicant for license desiring to make specific types of physical or functional alterations or additions to its facility or to construct new facilities shall, before commencing ~~such~~ the alteration or additions or new construction, submit plans and specifications ~~therefor~~ to the department for preliminary inspection and approval or recommendations with respect to ~~the~~ compliance with the department's rules and standards ~~herein authorized~~. When the plans and specifications ~~submitted as required by this subsection~~ have been properly approved by the department or other appropriate state agency, the facility or the portion of the facility constructed or altered in accord with the plans ~~so approved~~ and specifications shall not for a period of at least five years from completion of the construction or alteration be considered deficient or ineligible for licensing by reason of failure to meet any rule or standard established subsequent to approval of the plans and specifications, ~~unless a clear and present danger exists that would adversely affect the residents of the facility~~. When construction or alteration of a facility or portion of a facility has been completed in accord with plans and specifications submitted as required by this subsection and properly approved by the department or other appropriate state agency, and it is discovered that the facility or portion of a facility is not in compliance with a requirement of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, and the deficiency was apparent from the plans and specifications submitted but was not noted or objected to by the department or other appropriate state agency, the department or agency responsible for the oversight shall either waive the requirement or reimburse the licensee or applicant for any costs which are necessary to bring the new or reconstructed facility or portion of a facility into compliance with the requirement and which the licensee or applicant would not have incurred if the facility or portion of the facility had been constructed in compliance with the requirements of this chapter or of the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted. If within two years from the completion of the construction or alteration of the facility or portion thereof, a department or agency of the state orders that the new or reconstructed facility or portion thereof be brought into compliance with the requirements of this chapter or the rules or standards adopted pursuant to it and in effect at the time the plans and specifications were submitted, the state shall have a claim for damages to the extent of any reimbursement paid to the licensee or applicant against any person who designed the facility or portion thereof for negligence in the preparation of the plans and specifications therefor, subject to all defenses based upon the negligence of the state in reviewing and approving those plans and specifications, but not thereafter.

The provisions of this subsection shall not apply where the deficiency presents a clear and present danger to the safety of the residents of the facility.

Approved April 6, 1982

CHAPTER 1066

MULTIDISCIPLINARY TEAM ACCESS TO CHILD ABUSE INFORMATION

S.F. 536

AN ACT relating to multidisciplinary team access to child abuse information.

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

Section 1. Section 235A.13, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Multidisciplinary team" means a group of individuals who possess knowledge and skills related to the diagnosis, assessment, and disposition of child abuse cases and who are professionals practicing in the disciplines of medicine, public health, mental health, social work, child development, education, law, juvenile probation, or law enforcement.

Sec. 2. Section 235A.15, subsection 2, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. To a multidisciplinary team, if the department of social services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the diagnosis, assessment, and disposition of a child abuse case.

Approved April 6, 1982

CHAPTER 1067

INDIVIDUAL FARM OWNER ACCOUNTS EXEMPT FROM REAL ESTATE COMMISSION EXAMINATION

S.F. 2086

AN ACT exempting individual farm owner accounts from examination by the Iowa real estate commission.

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

Section 1. Section 117.46, subsection 3, Code 1981, is amended to read as follows:

3. Each broker shall authorize the commission to examine each trust account and shall obtain the certification of the bank or savings and loan association attesting to each trust account and consenting to the examination and audit of each account by a duly authorized representative of the commission. ~~Said~~ The certification and consent shall be furnished on

forms prescribed by the commission. This does not apply to an individual farm account maintained in the name of the owner or owners for the purpose of conducting ongoing farm business whether it is conducted by the farm owner or by an agent or farm manager when the account is part of a farm management agreement between the owner and agent or manager.

Approved April 6, 1982

CHAPTER 1068

CERTIFICATION OF FLOOR PLANS FOR HORIZONAL PROPERTY

S.F. 2097

AN ACT allowing the certification of floor plans for a building as required under chapter 499B by a registered land surveyor.

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

Section 1. Section 499B.6, Code 1981, is amended to read as follows:

499B.6 COPY OF THE FLOOR PLANS TO BE FILED. There shall be attached to the declaration, at the time it is filed, a full and an exact copy of the plans of the building, which copy ~~of the plans~~ shall be entered of record along with the declaration. ~~Said~~ The plans shall show graphically all particulars of the building including, but not limited to, the dimensions, area and location of common elements affording access to each apartment. Other common elements, both limited and general, shall be shown graphically insofar as possible and shall be certified to by an engineer ~~or~~, architect ~~authorized and~~, or land surveyor, either of which is registered or licensed to practice ~~his~~ that profession in this state.

Approved April 6, 1982

CHAPTER 1069

COMMUNITY SERVICE SENTENCING

S.F. 2163

AN ACT relating to the performance of unpaid community service by defendants convicted of crimes.

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

Section 1. Section 901.3, Code 1981, is amended to read as follows:

901.3 PRESENTENCE INVESTIGATION REPORT. ~~Whenever~~ If a presentence investigation is ordered by the court, the investigator shall promptly inquire into all of the following:

1. The defendant's characteristics, family and financial circumstances, needs, and potentialities, including the presence of any previously diagnosed mental disorder; ~~the~~.

2. The defendant's criminal record and social history; ~~the~~.

3. The circumstances of the offense; ~~the~~.

4. The time the defendant has been in detention; ~~and the~~.

5. The harm to the victim, the victim's immediate family, and the community.

6. The defendant's potential as a candidate for the community service sentence program established pursuant to section 4 of this Act.

All local and state mental and correctional institutions, courts, and police agencies shall furnish to the investigator on request the defendant's criminal record and other relevant information. With the approval of the court, a physical examination or psychiatric evaluation of the defendant may be ordered, or the defendant may be committed to an inpatient or outpatient psychiatric facility for an evaluation of his or her personality and mental health. The results of any such examination or evaluation shall be included in the report of the investigator.

Sec. 2. Section 905.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Provide a program to assist the court in placing defendants who as a condition of probation are sentenced to perform unpaid community service.

Sec. 3. Section 907.6, Code 1981, is amended to read as follows:

907.6 CONDITIONS OF PROBATION. The court, in ordering probation, may impose any reasonable rules and conditions which will promote rehabilitation of the defendant and protection of the community, including but not limited to adherence to regulations generally applicable to persons released on parole and including requiring unpaid community service as allowed pursuant to section 4 of this Act.

Sec. 4. Chapter 907, Code 1981, is amended by adding the following new section:

NEW SECTION. COMMUNITY SERVICE SENTENCING.

1. The court may establish as a condition of probation that the defendant perform unpaid community service for a time not to exceed the maximum period of confinement for the offense of which the defendant is convicted. If this condition is established, the defendant in cooperation with the probation officer assigned to the defendant and in cooperation with the judicial district department of correctional services, shall promptly prepare a plan to implement the community service condition. The plan shall include but shall not be limited to the suggested placement of the defendant and the suggested number of hours of services to be required.

2. The defendant's plan of community service, the comments of the defendant's probation officer, and the comments of the representative of the judicial district department of correctional services responsible for the unpaid community service program, shall be submitted promptly to the court. The court shall promptly enter an order approving the plan or modifying it. Compliance with the plan of community service as approved or modified by the court shall be a condition of the defendant's probation. The court thereafter may modify the plan at any time upon the defendant's request, upon the request of the judicial district department of correctional services, or upon the court's own motion.

3. At any time during the probation period the defendant may request and the court shall grant a hearing on any matter related to the plan of community service.

4. Failure of the defendant to comply with subsection 1 or to comply with the plan of community service as approved or modified by the court shall constitute a violation of the conditions of probation. Without limitation, the court may modify the plan of community service or modify the required hours of service, but not beyond the maximum hours of service specified in subsection 1 of this section.

Approved April 6, 1982

CHAPTER 1070

SUSPENSIONS OR REVOCATIONS OF DRIVING LICENSES OF JUVENILES

S.F. 2197

AN ACT relating to license and permit suspensions and revocations by certain juvenile offenders and permitting the taking of tests to determine the alcoholic content of blood of certain juveniles taken into custody.

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

Section 1. Chapter 321, Code 1981, is amended by adding the following new section in the division pertaining to cancellation, suspension, or revocation of licenses:

NEW SECTION. LICENSE SUSPENSIONS OR REVOCATIONS DUE TO VIOLATIONS BY JUVENILE DRIVERS. Upon the entering of an order at the conclusion of an adjudicatory hearing under section 232.47 that the child violated a provision of chapter 321 or 321A for which the penalty is greater than a simple misdemeanor, or that the child refused to submit to chemical testing under section 321B.3, the clerk of the juvenile court in the adjudicatory hearing shall forward a copy of the adjudication to the department. Notwithstanding section 232.55, a final adjudication in a juvenile court that the child violated a provision of chapter 321 or 321A constitutes a final conviction of a violation of a provision of chapter 321 or 321A for purposes of section 321.189, subsection 2, paragraph b, and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, and 321A.17. Notwithstanding section 232.55, the director shall revoke the license or permit of a child under section 321B.7 upon receipt of a copy of the final adjudication in a juvenile court that the child refused to submit to chemical testing under section 321B.3.

Sec. 2. Section 321B.2, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As used in this chapter, "arrest" includes but is not limited to taking into custody pursuant to section 232.19.

Approved April 6, 1982

CHAPTER 1071

AGREEMENTS FOR THE COLLECTION AND REFUNDING BY INTERSTATE MOTOR FUEL TAXES

S.F. 2201

AN ACT to authorize the state department of transportation to enter into agreements for the collection and refunding of interstate motor fuel tax.

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

Section 1. Chapter 324, division III, Code 1981, is amended by adding the following new section:

NEW SECTION. The director of transportation may, subject to the approval of the transportation commission, enter into motor fuel tax agreements on behalf of this state with authorized representatives of other states. The director of transportation may enter into and the state department of transportation may become a member of a motor fuel tax agreement for the collection and refund of interstate motor fuel tax. The director of transportation may adopt rules pursuant to chapter 17A to implement the agreement for the collection and refund of interstate motor fuel tax.

The department may enter into an agreement for the collection and refund of interstate motor fuel tax which conflicts with sections 324.57, 324.58, 324.65, and 324.68 and the agreement shall govern carriers covered by the agreement. Copies of the agreement shall be filed with the secretary of the senate and the chief clerk of the house.

Approved April 6, 1982

CHAPTER 1072

LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS

S.F. 2182

AN ACT relating to reserve valuation standards for life insurance policies and annuity contracts, and nonforfeiture benefits of life insurance policies.

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

Section 1. Section 508.36, subsections 2 and 3, Code 1981, are amended to read as follows:

2. This subsection ~~shall apply to only those~~ applies only to policies and contracts issued prior to the operative date of section 508.37, ~~(~~the Standard Nonforfeiture Law for Life Insurance~~)~~.

Except as otherwise provided in subsection 3, paragraphs "g" and "h" and subsection 4 for group annuity and pure endowment contracts, the minimum standard of valuation for all policies of domestic life insurance companies shall be the ~~Commissioners Reserve Valuation Method~~ commissioners reserve valuation method defined in ~~paragraph "b" of~~ subsection 3, paragraph b, and the American Experience Table of Mortality and four and one-half percent interest or the Actuaries' (or Combined) Experience Table of Mortality and four percent interest, except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts shall be that provided by this subsection but replacing the interest rates specified in this subsection by an interest rate of five percent per annum.

Reserves for ~~all such~~ policies and contracts may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all ~~such~~ policies and contracts than the minimum reserves required by this subsection.

3. This subsection ~~shall apply to only those~~ and subsections 4 and 5 apply only to policies and contracts issued on or after the operative date of section 508.37, ~~(~~the Standard Nonforfeiture Law for Life Insurance~~)~~, except as otherwise provided in paragraphs "g" and "h" and subsection 4 for group annuity and pure endowment contracts issued prior to ~~such~~ the operative date of section 508.37.

a. Except as otherwise provided in paragraphs "g" and "h" and subsection 4, the minimum ~~standard~~ standards for the valuation of all ~~such~~ policies and contracts shall be the ~~Commissioners Reserve Valuation Methods~~ commissioners reserve valuation methods defined in paragraphs "b", "c", and "f" ~~of this subsection 3~~, five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other ~~such~~ policies and contracts, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1974, four percent interest for ~~such~~ policies issued prior to January 1, 1980, and four and one-half percent interest for ~~such~~ policies issued on or after January 1, 1980, and the following tables:

(1) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in ~~such~~ the policies,— the Commissioners 1958 Standard Ordinary Mortality Table for policies issued prior to the operative date of section 508.37, subsection 6, provided that for any category of such policies issued on female risks

all modified net premiums and present values referred to in this subsection 3 may be calculated according to an age not more than six years younger than the actual age of the insured; and for policies issued on or after the operative date of section 508.37, subsection 6, the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or any ordinary mortality table that is adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for these policies.

(2) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in ~~such~~ the policies,—the 1941 Standard Industrial Mortality Table~~; provided, however, that the Commissioners 1961 Standard Industrial Mortality Table shall be the table for the minimum standard when said table becomes applicable under the Standard Nonforfeiture Law in accordance with section 508.37, subsection 5~~ for policies issued prior to the operative date on which the Commissioners 1961 Standard Industrial Mortality Table becomes applicable under the Standard Nonforfeiture Law for Life Insurance in accordance with section 508.37, subsection 5, and for policies issued on or after that date the Commissioners 1961 Standard Industrial Mortality Table, or any industrial mortality table that is adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for these policies.

(3) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in ~~such~~ the policies,—the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

(4) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in ~~such~~ the policies,—the Group Annuity Mortality Table for 1951, any modification of ~~such~~ this table approved by the commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts,—the tables of "Period 2" disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates that are adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for these policies. ~~Such~~ Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies,— the 1959 Accidental Death Benefits Table, or any accidental death benefit table that is adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for these policies. Any such table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(7) For group life insurance, life insurance issued on the substandard basis and other special benefits,—~~such~~ any tables ~~as may be~~ approved by the commissioner.

b. (1) Except as otherwise provided in paragraphs "c" and "f" ~~of this subsection~~, reserves according to the ~~Commissioners Reserve Valuation Method~~ commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform

amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of ~~such~~ the future guaranteed benefits provided for by ~~such~~ the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for ~~any such~~ a policy shall be such uniform percentage of the respective contract premiums for ~~such~~ the benefits that the present value, at the date of issue of the policy, of all ~~such~~ modified net premiums ~~shall be~~ is equal to the sum of the then present value of ~~such~~ the benefits provided for by the policy and the excess of ~~(x)~~ (a) over ~~(y)~~ (b), where (a) and (b) are as follows:

~~(x)~~ (a) A net level annual premium equal to the present value, at the date of issue, of ~~such~~ the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of ~~such~~ the policy on which a premium falls due; provided~~, however,~~ that ~~such~~ the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of ~~such~~ the policy.

~~(y)~~ (b) A net one-year term premium for ~~such~~ the benefits provided for in the first policy year.

(2) Provided that for any life insurance policy issued on or after January 1, 1985 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, which is defined as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall, except as otherwise provided in paragraph f, be the greater of the reserve as of the policy anniversary calculated as described in subparagraph (1) and the reserve as of the policy anniversary calculated as described in subparagraph (1), but with the value of (a) as defined in subparagraph (1) being reduced by fifteen percent of the amount of the excess first year premium, and with all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, and with the policy being assumed to mature on the assumed ending date as an endowment, and with the cash surrender value provided on the assumed ending date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in paragraph a and subsection 4 shall be used.

(3) Reserves according to the ~~Commissioners Reserve Valuation Method~~ commissioners reserve valuation method for ~~(1)~~ life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, ~~(2)~~ and for group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the United States Internal Revenue Code of 1954, as ~~now or hereafter~~ amended, ~~(3)~~ and for disability and accidental death benefits in all policies and contracts, and ~~(4)~~ for all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of ~~this paragraph "b"~~ subparagraphs (1) and (2), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

c. This ~~section shall apply~~ paragraph applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the United States Internal Revenue Code of 1954, as ~~now or hereafter~~ amended.

Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in ~~such~~ the contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by ~~such~~ the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of ~~such~~ the contract, that become payable prior to the end of ~~such~~ the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in ~~such~~ the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of ~~such~~ the contracts to determine nonforfeiture values.

d. ~~In no event shall a~~ A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in paragraphs "b", "c", and "f" ~~of this subsection~~ and subsection 5 and the mortality ~~table or~~ tables and ~~rate or~~ rates of interest used in calculating nonforfeiture benefits for ~~such~~ the policies.

e. Reserves for any category of policies, contracts or benefits, as the categories are established by the commissioner, may be calculated at the option of the company according to any standards which produce greater aggregate reserves for ~~such~~ the category than those calculated according to the minimum standard ~~herein~~ provided in this subsection.

f. If in any contract year the gross premium charged by ~~any~~ a life insurance company on ~~any~~ a policy or contract is less than the valuation net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve ~~thereon~~ on the policy or contract, according to the minimum standard prescribed in this section, then the minimum reserve required for ~~such~~ that policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest and method actually used for ~~such~~ the policy or contract, or the reserve calculated according to the mortality table, rate of interest and method used in calculating the reserve ~~thereon~~ on the policy or contract according to the minimum valuation standard prescribed by this section but replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in paragraph a and subsection 4.

Provided that for any life insurance policy issued on or after January 1, 1985 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, this paragraph shall be applied as if the method actually used in calculating the reserve for the policy were the method described in paragraph b, ignoring subparagraph (2) of paragraph b. The minimum reserve at each policy anniversary of the policy shall be the greater of the minimum reserve calculated in accordance with paragraph b, including subparagraph (2) of that paragraph, and the minimum reserve calculated in accordance with this paragraph.

g. ~~The~~ Except as provided in subsection 4, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph, and for all annuities and pure endowments purchased on or after ~~such~~ that operative date under group annuity and pure endowment contracts, shall be the ~~Commissioners Reserve Valuation Methods~~ commissioners reserve valuation methods defined in paragraphs "b" and "c" of this subsection and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in ~~such~~ the contracts,—the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(2) For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in ~~such~~ the contracts,—the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table that is adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the contracts, or any modification of ~~this table~~ these tables approved by the commissioner, and seven and one-half percent interest.

(3) For individual annuity and pure endowment contracts issued on or after January 1, 1980 other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in ~~such~~ the contracts,—the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table that is adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the contracts, or any modification of ~~this table~~ these tables approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other ~~such~~ individual annuity and pure endowment contracts.

(4) For all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under ~~such~~ the contracts,—the 1971 Group Annuity Mortality Table, or any modification of this table approved by the commissioner, and six percent interest.

(5) For all annuities and pure endowments purchased on or after January 1, 1980 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under ~~such~~ the contracts,— the 1971 Group Annuity Mortality Table, or any group annuity mortality table that is adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the annuities and pure endowments, or any modification of ~~this table~~ these tables approved by the commissioner and seven and one-half percent interest.

h. After July 1, 1974, any company may file with the commissioner a written notice of its election to comply with ~~the provisions of~~ paragraph "g" after a specified date before January 1, 1979, which shall be the operative date of paragraph "g" for ~~such~~ that company; provided, a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no ~~such~~ election, the operative date of paragraph "g" for ~~such~~ the company ~~shall be~~ is January 1, 1979.

Sec. 2. Section 508.36, Code 1981, is amended by adding the following new subsections as subsections 4 and 5 respectively:

NEW SUBSECTION. 4. a. Applicability of This Subsection. The interest rates used in

determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year, on or after the operative date of section 508.37, subsection 6, and of all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982, and of all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982 under group annuity and pure endowment contracts, and of the net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts, shall be the calendar year statutory valuation interest rates as defined in paragraph b.

b. Calendar Year Statutory Valuation Interest Rates. The calendar year statutory valuation interest rates, referred to in this paragraph as "I", shall be determined as follows and the results rounded to the nearest one-quarter of one percent:

(1) For life insurance,

$$I \text{ equals } .03 + W(R1 - .03) + \frac{W}{2}(R2 - .09),$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in paragraph d, and W is the weighting factor defined in paragraph c.

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

$$I \text{ equals } .03 + W(R - .03),$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in paragraph d, and W is the weighting factor defined in paragraph c.

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph (2), the formula for life insurance stated in subparagraph (1) applies to annuities and guaranteed interest contracts with guarantee durations in excess of ten years, and the formula for single premium immediate annuities stated in subparagraph (2) applies to annuities and guaranteed interest contracts with guarantee durations of ten years or less.

(4) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subparagraph (2) applies.

(5) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in subparagraph (2) applies.

However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined under subparagraph (1) without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, using the reference interest rate defined for 1979, and shall be determined for each subsequent calendar year regardless of when section 508.37, subsection 6 becomes operative.

c. Weighting Factors. The weighting factors referred to in paragraph b are given in the following tables:

(1) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(2) The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80.

(3) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph (2), shall be as specified in subdivisions i, ii, and iii of this subparagraph, according to the rules and definitions in subdivisions iv, v, and vi of this subparagraph:

i. For annuities and guaranteed interest contracts valued on an issue year basis:

	Weighting Factor for Plan Type		
Guarantee Duration (Years)	A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

ii. For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subdivision i of this subparagraph increased by:

Plan Type		
A	B	C
.15	.25	.05

iii. For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in subdivision i of this subparagraph or derived in subdivision ii of this subparagraph increased by:

Plan Type		
A	B	C
.05	.05	.05

iv. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

v. "Plan type", as used in subdivisions i, ii and iii of this subparagraph, is defined as follows:

"Plan Type A": At any time, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or may withdraw funds without that adjustment but in installments over five years or more, or may withdraw funds as an immediate life annuity; or no withdrawal is permitted.

"Plan Type B": Before expiration of the interest rate guarantee, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or may withdraw funds without that adjustment but in installments over five years or more; or no withdrawal is permitted. At the end of interest rate guarantee, funds may be withdrawn without adjustment in a single sum or installments over less than five years.

"Plan Type C": The policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

vi. A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change-in-fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis. As used in this subsection, an issue-year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change-in-fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

d. Reference Interest Rate. The reference interest rate referred to in paragraph b is defined as follows:

(1) For all life insurance, the rate as determined by any method that is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, including but not limited to the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc. or any successor to that corporation.

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the rate as determined by any method that is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, including but not limited to the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc. or any successor to that corporation.

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph (2), with guarantee duration in excess of ten years, the rate as determined by any method that is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, including but not limited to the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc. or any successor to that corporation.

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph (2), with guarantee duration of ten years or less, the rate as determined by any method that is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, including but not limited to the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc. or any successor to that corporation.

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the rate as determined by any method that is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, including but not limited to the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average-Monthly Average Corporates, as published by Moody's Investors Service, Inc. or any successor to that corporation.

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, except as stated in subparagraph (2), the rate as determined by any method that is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, including but not limited to the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average- Monthly Average Corporates, as published by Moody's Investors Service, Inc. or any successor to that corporation.

NEW SUBSECTION. 5. In the case of a plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of a plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsection 3, paragraphs b, c and f, the reserves which are held under the plan must be appropriate in relation to the benefits and the pattern of premiums for that plan, and must be computed by a method which is consistent with the principles of this section, as determined by rule adopted by the commissioner.

Sec. 3. Section 508.37, subsections 1, 2, 3, 4 and 5, Code 1981, are amended to read as follows:

1. In the case of policies issued on or after the operative date of this section as defined in subsection ~~8~~ 11, ~~no~~ a policy of life insurance shall not, except as stated in subsection ~~7~~ 10, ~~shall be issued or~~ be delivered or issued for delivery in this state unless it ~~shall contain~~ contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as the following provisions and are essentially in compliance with subsection 9:

a. That, in the event of default in any premium payment, the company will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of ~~such~~ the due date of the premium in default, and of ~~such value~~ an amount as ~~may be hereinafter~~ specified in this section. In lieu of the stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

b. That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of ~~such~~ an amount as may be ~~hereinafter~~ specified in this section.

c. That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make ~~such~~ an election elects another available option not later than sixty days after the due date of the premium in default.

d. That, if the policy ~~shall have become~~ has become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of ~~such~~ an amount as ~~may be hereinafter~~ specified in this section.

e. ~~A~~ In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary, either during the first twenty policy years or during the term of the policy, whichever is shorter, ~~such~~ the values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

f. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated ~~therein~~ in the policy, a statement that ~~such~~ the method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

2. Any of the provisions or portions ~~thereof~~ of provisions set forth in subsection 1 which are not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy. The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand ~~therefor~~ with surrender of the policy.

3. a. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection 1, shall be an amount not less than the excess, if any, of the present value, on ~~such~~ that anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of ~~(a)~~ the then present value of the adjusted premiums as defined in ~~subsection 5~~ subsections 5 and 6, corresponding to premiums which would have fallen due on and after ~~such~~ that anniversary, ~~and (b)~~ plus the amount of any indebtedness to the company on the policy.

b. However, for a policy issued on or after the operative date of subsection 6 as defined in paragraph k of that subsection, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in paragraph a shall be an amount not

less than the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in that paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

c. Provided further that for a family policy issued on or after the operative date of subsection 6 as defined in paragraph k of that subsection, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value referred to in paragraph a shall be an amount not less than the sum of the cash surrender value as defined in paragraph a for an otherwise similar policy issued at the same age without term insurance on the life of the spouse and the cash surrender value as defined in paragraph a for a policy which provides only the benefits otherwise provided by the term insurance on the life of the spouse.

d. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection 1, shall be an amount not less than the present value, on ~~such~~ the anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

4. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of ~~such~~ that anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

5. a. This subsection does not apply to policies issued on or after the operative date of subsection 6 as defined in paragraph k of that subsection. Except as provided in ~~the third~~ paragraph ~~of this subsection~~ c, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums ~~shall be~~ is equal to the sum of ~~(a)~~ the following:

(1) The then present value of the future guaranteed benefits provided for by the policy; ~~(b) two.~~

(2) Two percent of the amount of the insurance, if the insurance ~~be~~ is uniform in amount, or of the equivalent uniform amount, as ~~hereinafter~~ defined in paragraph b, if the amount of insurance varies with duration of the policy; ~~(c)~~ forty.

(3) Forty percent of the adjusted premium for the first policy year; ~~(d) twenty-five.~~

(4) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

PARAGRAPH DIVIDED. ~~Provided, however, that~~ However, in applying the percentages specified in ~~"c" and "d" above~~ subparagraphs (3) and (4), no adjusted premium shall be deemed to exceed four percent of the amount of insurance or an equivalent uniform amount ~~equivalent thereto~~. The date of issue of a policy for the purpose of this subsection ~~5 shall be~~ is the date as of which the rated age of the insured is determined.

b. In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount ~~thereof~~ for the purpose of this subsection ~~5~~ shall be

deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy, provided~~,~~ ~~however,~~ that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by ~~such~~ the policy at age ten.

c. The adjusted premiums for ~~any~~ a policy providing term insurance benefits by rider or supplemental policy provision shall be equal to ~~(e)~~ (1) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased during the period for which premiums for such term insurance benefits are payable, by ~~(f)~~ (2) the adjusted premiums for such term insurance, the foregoing items ~~"e"~~ ~~and~~ ~~"f"~~ (1) and (2) being calculated separately and as specified in ~~the first two~~ paragraphs a and b of this subsection except that, for the purposes of ~~"b",~~ ~~"c"~~ ~~and~~ ~~"d"~~ subparagraphs (2), (3) and (4) of ~~the first~~ paragraph ~~of this subsection~~ a, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in ~~"f"~~ ~~of~~ item (2) in this paragraph shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in ~~"e"~~ ~~of~~ item (1) in this paragraph.

d. (1) All adjusted premiums and present values referred to in this section shall for ~~all~~ policies of ordinary insurance be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. ~~Such~~ The calculations for all policies of industrial insurance issued before January 1, 1968 shall be made on the basis of the 1941 Standard Industrial Mortality Table~~;~~ ~~provided, however, that any~~, except that a company may file with the commissioner a written notice of its election that ~~such~~ the adjusted premiums and present values shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table, after a specified date before January 1, 1968~~;~~ ~~provided, further, that, whether~~. Whether or not any election has been made, ~~such~~ the Commissioners 1961 Standard Industrial Mortality Table shall be the basis for ~~such~~ these calculations as to all policies of industrial insurance issued on or after January 1, 1968. All calculations shall be made on the basis of the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits~~;~~, provided~~,~~ that ~~such~~ the rate of interest shall not exceed three and one-half percent per annum, except that a rate of interest not exceeding four percent per annum may be used for policies issued on or after July 1, 1974, and prior to January 1, 1980, and a rate of interest not exceeding five and one-half percent per annum may be used for policies issued on or after January 1, 1980. ~~Provided, however, that~~

(2) However, in calculating the present value under subparagraph (1) of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed in the case of policies of ordinary insurance~~,~~ may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table, and~~,~~ in the case of policies of industrial insurance, may be not more than one hundred thirty percent of the rates of mortality according to the 1941 Standard Industrial Mortality Table, except that when the Commissioners 1961 Standard Industrial Mortality Table becomes applicable~~,~~ ~~as hereinbefore provided, such~~ as specified in this paragraph, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table~~,~~ ~~provided, further, that~~. In addition, for insurance issued on a substandard basis, the calculation under subparagraph (1) of ~~any such~~ adjusted premiums and present values may be based on

~~such~~ any other table of mortality ~~as may be~~ that is specified by the company and approved by the commissioner.

Sec. 4. Section 508.37, Code 1981, is amended by adding the following new subsections as subsections 6 and 7 respectively:

NEW SUBSECTION. 6. a. This subsection applies to all policies issued on or after the operative date of this subsection, as defined in paragraph k. Except as provided in paragraph g, the adjusted premiums for a policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums is equal to the sum of the following:

(1) The then present value of the future guaranteed benefits provided for by the policy.

(2) One percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

(3) One hundred twenty-five percent of the nonforfeiture net level premium, as defined in paragraph b. However, in applying this percentage a nonforfeiture net level premium shall not be deemed to exceed four percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

The date of issue of a policy for the purpose of this subsection is the date as of which the rated age of the insured is determined.

b. The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

c. In the case of policies which on a basis guaranteed in the policy cause unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of a change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

d. Except as otherwise provided in paragraph g, the recalculated future adjusted premiums for a policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums is equal to the excess of the sum of the then present value of the then future guaranteed benefits provided for by the policy plus the additional expense allowance, if any, over the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

e. The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of one percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy, plus one hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

f. The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (1) by (2), where (1) and (2) are as follows:

(1) The sum of the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, plus the present value of the increase in future guaranteed benefits provided for by the policy.

(2) The present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

g. Notwithstanding any contrary provision of this subsection, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide those higher uniform amounts of insurance on the standard basis.

h. Adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of either the Commissioners 1980 Standard Ordinary Mortality Table or, at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in paragraph i for policies issued in that calendar year. However:

(1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in paragraph i, for policies issued in the immediately preceding calendar year.

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection 1, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(3) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(5) For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on appropriate modifications of the tables referred to in this paragraph.

(6) Any ordinary mortality tables adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(7) Any industrial mortality tables adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

i. The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for the policy as defined in section 508.36, rounded to the nearest one quarter of one percent.

j. Notwithstanding any contrary provision of the insurance laws of this state, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

k. After the effective date of this subsection, a company may file with the commissioner a written notice of its election to comply with this subsection after a specified date before January 1, 1989, which shall be the operative date of this subsection for that company. If a company makes no election, the operative date of this subsection for the company is January 1, 1989.

NEW SUBSECTION. 7. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in subsection 1, 2, 3, 4, 5, or 6, then all of the following conditions must be met:

a. The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subsection 1, 2, 3, 4, 5, or 6.

b. The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not misleading to prospective policyholders or insureds.

c. The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this section, as determined by rules adopted by the commissioner.

Sec. 5. Section 508.37, subsection 6, Code 1981, is renumbered as subsection 8 and amended to read as follows:

~~6~~ 8. Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections 3, 4 ~~and 5~~ 4, 5, and 6 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the ~~dividends~~ amounts used to provide ~~such~~ the additions. Notwithstanding ~~the provisions of~~ subsection 3 ~~above~~, additional benefits payable ~~(a)~~ in the event of death or dismemberment by accident or accidental means, ~~(b)~~ or in the event of total and permanent disability, ~~(c)~~ or as reversionary annuity or deferred reversionary annuity benefits, ~~(d)~~ or as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, ~~(e)~~ or as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if ~~such~~ the term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, ~~and (f)~~ or as other policy benefits additional to life insurance and endowment benefits, and the premiums for all ~~such~~ of these additional benefits, shall be disregarded ~~as~~ in ascertaining cash surrender values and nonforfeiture benefits required by this section, and ~~no such~~ none of these additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

Sec. 6. Section 508.37, Code 1981, is amended by adding the following new subsection as subsection 9:

NEW SUBSECTION. 9. a. This subsection, in addition to all other applicable subsections of this section, applies to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of the greater of zero and the basic cash value specified in paragraph b plus the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

b. The basic cash value shall be equal to the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as defined in paragraph c, corresponding to premiums which would have fallen due on and after the anniversary. However, the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subsection 3 or 5, whichever is applicable, shall be the same as the effects specified in subsection 3 or 5, whichever is applicable, on the cash surrender values defined in that subsection.

c. (1) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subsection 5 or 6, whichever is applicable. Except as is required by subparagraph (2) of this paragraph, this percentage must satisfy both of the following requirements:

(a) It must be the same percentage for each policy year between the second policy anniversary and the later of the fifth policy anniversary or the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years.

(b) It must be such that no percentage after the later of the two policy anniversaries specified in subdivision (a) of this subparagraph may apply to fewer than five consecutive policy years.

(2) A basic cash value shall not be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subsection 5 or 6, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

d. Adjusted premiums and present values referred to in this subsection shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subsections of this section. The cash surrender values referred to in this subsection shall include any endowment benefits provided for by the policy.

e. Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment, shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subsections 1, 2, 3, 4, 6, and 8. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those described in subsection 8 shall conform with the principles of this subsection.

Sec. 7. Section 508.37, subsections 7 and 8, Code 1981, are renumbered as subsections 10 and 11 and are amended to read as follows:

~~7~~ 10. a. This section ~~shall~~ does not apply to any ~~reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection 5 above, is less than the adjusted premium so calculated, on such fifteen year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.~~ of the following:

(1) Reinsurance.

(2) Group insurance.

(3) Pure endowment contracts.

(4) Annuity or reversionary annuity contracts.

(5) A term policy of uniform amount which provides no guaranteed nonforfeiture or endowment benefits, or a renewal thereof of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy.

(6) A term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subsections 5 and 6, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy.

(7) A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subsections 3, 4, 5 and 6, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year.

(8) A policy delivered outside this state through an agent or other representative of the company issuing the policy.

b. For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

~~8~~ 11. After July 4, 1963, ~~any~~ a company may file with the commissioner a written notice of its election to comply with ~~the provisions of~~ this section after a specified date before January 1, 1966. ~~After the filing of such notice, then upon such specified date (which~~ The date specified by the company in the notice shall be the operative date of this section for ~~such~~ the company~~)~~, and this section shall ~~become operative with respect~~ apply to ~~the~~ policies ~~thereafter~~ issued after that date by ~~such~~ the company. If a company makes no ~~such~~ election, the operative date of this section for ~~such~~ the company ~~shall be~~ is January 1, 1966.

Approved April 9, 1982

CHAPTER 1073

COUNTY OFFICERS QUARTERLY REPORTS

S.F. 454

AN ACT relating to quarterly reports by county officers.

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

Section 1. Section 331.902, subsection 3, 1981 Code Supplement, is amended to read as follows:

3. Each elective officer specified in subsection 1 shall make an ~~itemized, verified,~~ quarterly report to the board showing, by type, the fees collected during the preceding quarter. The officer shall pay quarterly to the county treasury the fees and charges collected during the preceding quarter, receive duplicate receipts for the payment, and file one of the receipts in the office of the auditor. The officer shall note in the officer's fee book the date and amount of each payment into the county treasury.

Approved April 9, 1982

CHAPTER 1074

CHRONIC RENAL DISEASE PROGRAM

S.F. 535

AN ACT relating to the chronic renal disease program within the state department of health.

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

Section 1. Section 135.45, Code 1981, is amended to read as follows:

135.45 PROGRAM ESTABLISHED—DEFINITIONS.

1. The commissioner ~~or his designee~~ shall establish within the department a program ~~for the care and treatment of~~ to provide financial assistance to eligible persons ~~suffering from chronic~~ with end-stage renal ~~diseases. This program shall assist persons suffering from chronic renal diseases~~ disease who require lifesaving ~~care and treatment~~ services for ~~such~~ the renal disease, but ~~who~~ are unable to pay for ~~such~~ the service on a continuing basis.

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

a. "Commissioner" means the commissioner of public health.

b. "Committee" means the renal disease advisory committee.

c. "Department" means the state department of health.

d. "End-stage renal disease" means kidney failure which has progressed enough to require dialysis treatment or a kidney transplant to sustain life.

e. "Patient" means a person with end-stage renal disease who applies to the department for financial assistance and who is approved to receive the assistance.

f. "Physician" means a person who is licensed under chapter 148, 150, or 150A.

g. "Program" means the chronic renal disease program conducted by the department.

h. "Provider" means a professional or a public or private organization which provides services, directly or indirectly, for the treatment of end-stage renal disease.

Sec. 2. Section 135.46, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

135.46 COMMITTEE ESTABLISHED—TERMS OF MEMBERSHIP. There is established in the department a renal disease advisory committee to advise the department on the administration of the program, and to adjudicate appeals concerning the denial, suspension, or revocation of financial assistance.

1. The committee shall consist of thirteen members appointed by the commissioner. Each member shall be appointed for a term of four years or until a successor is appointed and qualifies beginning July 1 of the year of appointment. The commissioner shall fill a vacancy occurring before the expiration of a term by the appointment of a person who represents the same area pursuant to subsection 2, which the person who caused the vacancy represented.

2. The committee shall consist of:

a. Two physicians representing the Iowa medical profession and who are actively involved in renal dialysis or transplantation.

b. One registered nurse representing nephrology nurses.

c. One social worker representing social workers who are actively involved in patient counseling.

d. One member representing the professional staff of the kidney foundation of Iowa.

e. Two members who are hospital administrators representing Iowa hospitals. One of the members shall represent a dialysis or transplant facility and the other member shall represent a facility that does not provide dialysis or transplant services.

f. One social security administrator representing those actively involved in patient or provider reimbursement.

g. One member representing an Iowa medicare intermediary and involved in third-party payments.

h. One member representing the end-stage renal disease network #8 as established by federal law.

i. One member representing the insurance department of the state.

j. Two members representing the consumers of health care in Iowa.

3. The committee shall meet as frequently as the commissioner deems necessary, but not less than annually. Special meetings may be called by the commissioner or upon written request by four of the members of the committee. The written request shall include the reason for the meeting. The committee shall elect the officers deemed necessary. A majority of the members is a quorum. The concurrence of at least the quorum is necessary for the committee to render a determination or decision. The committee members shall be reimbursed for actual and necessary expenses incurred in attending meetings of the committee or for discharging their official duties at places outside their county of residence.

Sec. 3. Section 135.47, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

135.47 RULE-MAKING AUTHORITY. The department, after consulting with the committee, shall adopt rules relating to financial assistance for the renal disease program. The rules shall include, but are not limited to:

1. The establishment of financial criteria for determining patient eligibility for the program. The eligibility shall be based upon the financial resources of the applicant or patient with due regard to all sources of income.

2. The type and amount of financial assistance that may be provided.

3. The requirements for financial participation by a patient.

4. The establishment of procedures relating to receiving and processing provider fees charged to the department for services rendered on behalf of a patient.

5. The requirements for residency in Iowa for dialysis and transplant patients.

6. Procedures relating to the appeal by an applicant or a patient to the committee because of a denial, suspension, or revocation of financial assistance.

Sec. 4. Chapter 135, Code 1981, is amended by adding the following new section as section 135.48:

NEW SECTION. 135.48 APPLICATION FOR FINANCIAL ASSISTANCE.

1. A person diagnosed by a physician as having end-stage renal disease may apply to the department for financial assistance from the program for expenses related directly or indirectly to the illness.

2. The type and amount of financial assistance provided shall be determined by an evaluation of the patient's medical and financial status pursuant to the rules of the department.

3. The department may approve an application for financial assistance if the applicant meets the eligibility requirements for the program and if funds are available.

4. The department may deny an application for financial assistance or may suspend or revoke existing financial assistance for an applicant or patient if the department determines that the applicant or patient is not eligible pursuant to the rules of the department. The denial, suspension, or revocation of financial assistance is not a contested case until the action is appealed to the committee as provided by rule.

Sec. 5. The terms of all the members of the renal disease advisory committee prior to the effective date of this Act expire on the effective date of this Act. In making the initial appointments to the committee under this Act the commissioner of public health shall appoint four members to terms of one year, three members to terms of two years, three members to terms of three years, and three members to terms of four years.

Approved April 9, 1982

CHAPTER 1075

OVERSIZE VEHICLES

S.F. 2157

AN ACT to allow vehicles with indivisible loads, mobile homes, and factory-built structures with a width not exceeding fourteen feet six inches and an overall length not exceeding eighty-five feet to be moved on the highways of this state under permit.

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

Section 1. Section 321E.8, subsection 2, Code 1981, is amended to read as follows:

2. Vehicles with indivisible loads, including mobile homes and factory-built structures, having an overall width not to exceed fourteen feet, ~~zero~~ six inches and an overall length not to exceed eighty-five feet, zero inches shall be restricted to trip distances not to exceed fifty highway and street miles in total aggregate. The vehicle and load shall not exceed the height as prescribed in section 321.456 and the total gross weight as prescribed in section 321.463.

Approved April 9, 1982

CHAPTER 1076

TIME LIMITATION FOR ESTATE ADMINISTRATION

S.F. 2209

AN ACT relating to the time limitation for the administration of an estate including documentation of title.

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

Section 1. Section 633.331, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 196, section 1, is amended to read as follows:

633.331 LIMITATION OF ADMINISTRATION. ~~Administration~~ Probate of a will, original administration of an intestate estate, ~~testate or intestate, domiciliary~~ or ancillary administration of an estate, shall not be granted after five years from the death of the decedent, whether the decedent died within or without this state, unless a petition for probate or administration is filed prior to the expiration of the five-year period. However, ~~the will of a decedent may be admitted after the expiration of the five-year period as documentary evidence of title only~~ this section does not apply to the probate of a will of a decedent who died prior to January 1, 1964.

Approved April 9, 1982

CHAPTER 1077

STATE ELEVATOR CODE

S.F. 2210

AN ACT relating to the enforcement of the Iowa state elevator code, and providing a civil penalty.

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

Section 1. Section 104.6, subsection 3, Code 1981, is amended to read as follows:

3. Every facility shall be inspected not less frequently than annually, except that the commissioner may adopt rules providing for inspections of facilities at intervals other than annually.

Sec. 2. Chapter 104, Code 1981, is amended by adding the following new section:

NEW SECTION. CIVIL PENALTY. If upon notice and hearing the commissioner determines that an owner has operated a facility after an order of the commissioner that suspends, revokes, or refuses to issue an operating permit for the facility has become final under section 104.10, subsection 2, the commissioner may assess a civil penalty against the owner in an amount not exceeding five hundred dollars, as determined by the commissioner. An order assessing a civil penalty is subject to appeal and judicial review under section 104.10, subsection 2, in the same manner and to the same extent as decisions referred to in that subsection. The commissioner may commence an action in the district court to enforce payment of the civil penalty. No record of assessment against or payment of a civil penalty by any person for a violation of this section shall be admissible as evidence in any court in any civil action. Revenue from the penalty provided in this section shall be remitted to the treasurer of state for deposit in the state general fund.

Approved April 9, 1982

CHAPTER 1078

TERRACE HILL AUTHORITY

S.F. 2282

AN ACT to establish the Terrace Hill authority.

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

Section 1. Chapter 7, Code 1981, is amended by adding the following new section:

NEW SECTION. TERRACE HILL AUTHORITY.

1. There is established the Terrace Hill authority consisting of a governor's designee and eight persons appointed by the governor who are knowledgeable in business management, historic preservation and renovation. The terms of the appointed members shall be for three years beginning on July 1 and ending on June 30.

2. The Terrace Hill authority is established to implement the intent of the original gift of Terrace Hill and the federal and state laws regarding historic preservation and public buildings, to complete the preservation, renovation and landscaping of Terrace Hill, and to raise the necessary funds for these purposes.

3. The Terrace Hill authority may enter into contracts, subject to chapter 18, to execute its purposes.

4. The Terrace Hill authority may consult with the Terrace Hill Society, Terrace Hill Foundation, the executive and legislative branches of this state and other persons interested in the property.

Sec. 2. Members of the Terrace Hill authority appointed under the terms of the governor's executive order 26 shall continue to serve the terms provided for under that order. Upon the expiration of those terms, appointments shall be made under this Act.

Approved April 9, 1982

CHAPTER 1079

APPEAL PROCEDURES WHEN LOCAL GOVERNMENT BUDGET AMENDED

H.F. 2371

AN ACT to revise the procedures of the state appeal board in the consideration of the budgets of local governments and providing an effective date.

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

Section 1. Section 24.9, unnumbered paragraph 4, Code 1981, is amended to read as follows:

Budget estimates adopted and certified in accordance with this chapter may be amended and increased as the need arises to permit appropriation and expenditure during the fiscal year covered by ~~such~~ the budget of unexpended cash balances on hand at the close of the preceding fiscal year and which cash balances had not been estimated and appropriated for expenditure during the fiscal year of the budget sought to be amended, and also to permit appropriation and expenditure during the fiscal year covered by ~~such~~ the budget of amounts of cash anticipated to be available during ~~such~~ the year from sources other than taxation and which had not been estimated and appropriated for expenditure during the fiscal year of the budget sought to be amended. Such amendments to budget estimates may be considered and adopted at any time during the fiscal year covered by the budget sought to be amended, by filing ~~such~~ the amendments and upon publishing ~~the same~~ them and giving notice of the public hearing ~~thereon~~ in the manner required in this section. Within ~~twenty~~ ten days of the decision

or order of the certifying or levying board, ~~such~~ the proposed amendment of the budget ~~shall be~~ is subject to protest, hearing on ~~such~~ the protest, appeal to the state appeal board and review by ~~such~~ that body, all in accordance with ~~the provisions of~~ sections 24.27 to 24.32, so far as applicable. A local budget shall be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and a decision rendered before June 30. An amendment of a budget after May 31 which is properly appealed but without adequate time for hearing and decision before June 30 is void. Amendments budget estimates accepted or issued under ~~the provisions of~~ this section ~~shall~~ are not ~~be considered as~~ within ~~the provisions of~~ section 24.14.

Sec. 2. Section 24.27, Code 1981, is amended to read as follows:

24.27 PROTEST TO BUDGET. Not later than ~~the first Tuesday in April~~ March 25, a number of persons in any municipality equal to one-fourth of one percent of those voting for the office of ~~president of the United States or~~ governor~~, as the case may be~~, at the last general election in ~~said~~ the municipality, but the number shall not be less than ten, and the number need not be more than one hundred persons, who are affected by any proposed budget, expenditure or tax levy, or by any item thereof, may appeal from any decision of the certifying board or the levying board~~, as the case may be,~~ by filing with the county auditor of the county in which ~~such~~ the municipal corporation is located, a written protest setting forth their objections to ~~such~~ the budget, expenditure or tax levy, or to one or more items thereof, and the grounds for ~~such~~ their objections. If a budget is certified after March 15, all appeal time limits shall be extended to correspond to allowances for a timely filing. Upon the filing of ~~any such~~ a protest, the county auditor shall immediately prepare a true and complete copy of ~~said~~ the written protest, together with the budget, proposed tax levy or expenditure to which objections are made, and shall transmit ~~the same~~ them forthwith to the state board, and shall also send a copy of ~~such~~ the protest to the certifying board or to the levying board, as the case may be.

Sec. 3. Section 24.28, Code 1981, is amended to read as follows:

24.28 HEARING ON PROTEST. The state board, within a reasonable time, shall fix a date for an initial hearing on ~~such~~ the protest and ~~shall~~ may designate a deputy to hold ~~such~~ the hearing, which shall be held in the county or in one of the counties in which ~~such~~ the municipality is located. Notice of the time and place of ~~such~~ the hearing shall be given by certified mail to the ~~chief executive officer of the municipality~~ appropriate officials of the local government and to the first ten property owners whose names appear upon ~~such~~ the protest, at least five days before the date fixed for ~~such~~ the hearing. At all ~~such~~ hearings, the burden shall be upon the objectors with reference to any proposed item in the budget which was included in the budget of the previous year and which ~~such~~ the objectors propose should be reduced or excluded; but the burden shall be upon the certifying board or the levying board, as the case may be, to show that any new item in the budget, or any increase in any item ~~thereof~~ in the budget, is necessary, reasonable, and in the interest of the public welfare.

Sec. 4. Section 24.29, Code 1981, is amended to read as follows:

24.29 APPEAL. The state board may conduct the hearing or may appoint a deputy. A deputy designated to hear ~~any particular~~ an appeal shall attend in person and conduct ~~such~~ the hearing in accordance with ~~the procedure prescribed in~~ section 24.28, and shall promptly report the proceedings ~~had~~ at ~~such~~ the hearing, which report shall become a part of the permanent record of the state board. ~~At the request of either party, or on his own motion, the deputy shall employ a stenographer to report the proceedings, in which event the stenographic notes shall be filed with the report. Either party desiring to have a transcript of such notes presented to the state board with the deputy's report, may have the same made at his initial expense, such expense to eventually follow the result.~~

Sec. 5. Section 24.32, Code 1981, is amended to read as follows:

24.32 DECISION CERTIFIED ~~TO COUNTY~~. After a hearing upon ~~such~~ the appeal, the state board shall certify its decision ~~with respect thereto~~ to the county auditor and to the parties to the appeal as provided by rule, and ~~such~~ the decision shall be final. The county auditor shall make up ~~his~~ the records in accordance with ~~such~~ the decision and the levying board shall make its levy in accordance ~~therewith~~ with the decision. Upon receipt of ~~such~~ the decision, ~~the county auditor shall immediately notify both parties thereof, whereupon~~ the certifying board shall correct its records accordingly, if necessary. Final disposition of all ~~such~~ appeals shall be made by the state board on or before April ~~24~~ 30 of each year.

Sec. 6. Section 384.18, unnumbered paragraph 2, Code 1981, is amended to read as follows:

A budget amendment must be prepared and adopted in the same manner as the original budget, as provided in section 384.16, and is subject to protest as provided in section 384.19, except that the committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest. A city budget shall be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and a decision rendered before June 30. The amendment of a budget after May 31, which is properly appealed but without adequate time for hearing and decision before June 30 is void.

Sec. 7. Section 384.19, unnumbered paragraphs 3 and 4, Code 1981, are amended to read as follows:

The state appeal board shall proceed to consider the protest in accordance with the same provisions that protests to budgets of municipalities are considered under chapter 24. The state appeal board shall certify its decision with respect to the protest to the county auditor and to the parties to the appeal as provided by rule, and ~~such~~ the decision shall be final.

The county auditor shall make up ~~his~~ the records in accordance with ~~such~~ the decision and the levying board shall make its levy in accordance ~~therewith~~ with the decision. Upon receipt of ~~such~~ the decision, ~~the county auditor shall immediately notify both parties thereof, whereupon~~ the council shall correct its records accordingly, if necessary.

Sec. 8. Section 441.16, unnumbered paragraph 4, Code 1981, is amended to read as follows:

Each fiscal year the chairman of the conference board shall, by written notice, call a meeting of the conference board to consider ~~such~~ the proposed budget ~~and shall fix and adopt a consolidated budget for the ensuing year not later than January 15~~ and to comply with section 24.9.

Sec. 9. This Act, being deemed of immediate importance, takes effect from and after its publication in The Malvern Leader, a newspaper published in Malvern, Iowa, and in The Denison Bulletin, a newspaper published in Denison, Iowa.

Approved April 19, 1982

Pursuant to the authority vested in the undersigned, Secretary of State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1981, because of inherent and imperative need, I hereby designate the Des Moines Tribune, Des Moines, Iowa to publish the foregoing Act, House File 2371.

I hereby certify that the foregoing Act, House File 2371 was published in The Malvern Leader, Malvern, Iowa on April 29, 1982, and in The Denison Bulletin, Denison, Iowa on April 29, 1982, and in the Des Moines Tribune, Des Moines, Iowa on April 29, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1080

FACILITIES AND BUILDINGS FOR AN AREA EDUCATION AGENCY

H.F. 2372

AN ACT relating to leasing of facilities and buildings, the receipt of gifts, and the operation and maintenance of facilities and buildings by an area education agency.

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

Section 1. Section 273.3, subsection 7, Code 1981, is amended to read as follows:

7. Be authorized to lease, subject to the approval of the state board of public instruction, ~~to lease,~~ and to receive by gift and operate and maintain ~~such~~ facilities and buildings ~~as deemed~~ necessary to provide authorized programs and services. However, a lease for less than ten years and with an annual cost of less than twenty-five thousand dollars does not require the approval of the state board. If a lease requires approval, the state board shall not approve the ~~leasing or renting of facilities or buildings~~ lease until ~~it~~ the state board is satisfied by investigation that ~~no~~ public school corporations within the area do not have suitable facilities available.

Approved April 19, 1982

CHAPTER 1081

ENERGY POLICY COUNCIL

H.F. 2373

AN ACT relating to the continuation of the activities and functions of the energy policy council, changing the date of the submission of the council's required report, and eliminating the requirement that public recognition for innovative energy conservation methods be given to ten categories of individuals and organizations in each congressional district.

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

Section 1. Section 93.7, subsection 4, Code 1981, is amended to read as follows:

4. On at least ~~a quarterly~~ an annual basis submit to the governor and the general assembly, and to each member of the senate and the house of representatives and the legislative council when the general assembly is not in session, a report identifying trends relating to energy supply, demand, and conservation and making recommendations to the governor and the general assembly for additional action in accordance with the report. The council shall include in its report the amount, price, and disposition of the fuel contracted for each month pursuant to subsection 9 and the name of the supplier of the fuel.

Sec. 2. Section 93.7, subsection 15, Code 1981, is amended to read as follows:

15. Develop a program ~~in each congressional district in the state~~ to annually give public recognition to innovative methods of energy conservation ~~developed or used by or for persons in the following categories:~~.

~~a. Individuals.~~

~~b. Nonprofit or other organizations.~~

~~c. Single-family residences.~~

~~d. Multiple-family residences.~~

~~e. Agriculture.~~

~~f. Commercial enterprises.~~

~~g. Industries.~~

~~h. Utilities.~~

~~i. Governments.~~

~~j. Transportation.~~

Sec. 3. Section 93.16, Code 1981, is amended to read as follows:

93.16 REVIEW. The ~~second~~ first session of the ~~Sixty-ninth~~ Seventy-second General Assembly meeting in the year ~~1982~~ 1987 shall review the activities and performance of the council and shall not later than July 1, ~~1982~~ 1987 make a determination concerning the status and duties of the council.

Sec. 4. Section 93.17, Code 1981, is amended to read as follows:

93.17 REPEAL. Chapter 93 of the Code is repealed June 30, ~~1983~~ 1988.

Approved April 19, 1982

CHAPTER 1082

ESCAPE FROM DETENTION FACILITY

H.F. 2374

AN ACT relating to escape from a detention facility or institution and providing a penalty.

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

Section 1. Section 719.4, subsections 1 and 2, Code 1981, are amended to read as follows:

1. A person convicted of a felony, or charged with or arrested for the commission of a felony, who intentionally escapes from any detention facility or institution to which the person has been committed by reason of such conviction ~~or~~, charge, or arrest, or from the custody of any public officer or employee to whom the person has been entrusted, commits a class "D" felony.

2. A person convicted ~~or~~ of, charged with, or arrested for a misdemeanor, who intentionally escapes from any detention facility or institution to which the person has been committed by reason of such conviction ~~or~~, charge, or arrest, or from the custody of any public officer or employee to whom the person has been entrusted, commits a serious misdemeanor.

Approved April 19, 1982

CHAPTER 1083

CONSERVANCY DISTRICT PLANS

H.F. 2378

AN ACT relating to the role of soil conservation district commissioners in the development and implementation of the conservancy district plan.

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

Section 1. Section 467A.7, subsection 15, Code 1981, is amended to read as follows:

15. To take notice of the conservancy district plan, and conform to the duly promulgated rules of the conservancy district or conservancy districts in which the soil conservation district is located; provided that this subsection ~~shall~~ does not ~~be construed to~~ grant any authority not otherwise granted by law to the commissioners of soil conservation districts.

Sec. 2. Section 467D.16, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The board shall prepare a plan for accomplishment of the objectives of this chapter within the conservancy district. For this purpose the board may request and shall obtain from any state agency or political subdivision information which the agency or subdivision ~~may have~~ has already collected which is pertinent to preparation of the plan, shall consult with soil conservation district commissioners, and may conduct ~~such~~ hearings as it deems necessary. The plan shall establish an order of priorities for carrying out projects necessary to accomplish the objectives of this chapter, shall conform as nearly as practicable to the comprehensive state-wide water resources plan established by the council pursuant to section 455A.17 and shall reflect the following general policies:

Sec. 3. Section 467D.17, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

467D.17 PLAN PRESENTED TO COMMITTEE, COUNCIL, AND SOIL CONSERVATION DISTRICTS. The board shall tentatively adopt the plan by resolution and shall present the plan to the committee and the council for review. The council shall within ninety days review the plan as presented and make recommendations as, in its discretion, it deems necessary to bring the conservancy district's plan into conformity with the comprehensive state-wide water resources plan established by the council pursuant to section 455A.17. The recommendations of the council shall be submitted to the board for incorporation into the plan. The plan shall then be submitted to the soil conservation districts located entirely or partially within the conservancy district. The soil conservation districts shall review, comment and record a vote within ninety days indicating their support of or opposition to the plan in the same manner provided in section 467D.5, subsection 1. The committee shall inform the soil conservation districts of the votes of the districts within the conservancy district. The committee shall review the plan as presented, give consideration to the comments and vote of the soil conservation districts, give final approval or disapproval of the plan within ninety days, and provide a written statement detailing the basis of their decision.

A subsequent major change in the plan, as determined by the conservancy board, is not effective until approved by the process provided in this section for approval of the original plan.

Sec. 4. Section 467A.52, Code 1981, is repealed.

Approved April 19, 1982

CHAPTER 1084

FISH AND GAME PROTECTION FUND

H.F. 2379

AN ACT to provide for the interest and earnings of the state fish and game protection fund.

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

Section 1. Section 107.17, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The state fish and game protection fund, except as otherwise provided, shall consist of all moneys accruing from license fees and all other sources of revenue arising under the division of fish and game. Notwithstanding section 453.7, subsection 2, interest or earnings on investments or time deposits of the funds in the state fish and game protection fund shall be credited to the state fish and game protection fund.

Approved April 19, 1982

CHAPTER 1085

WELL IDENTIFICATION

H.F. 2382

AN ACT relating to the identification of the location of wells.

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

Section 1. WELL INQUIRY. The assessor in each assessor jurisdiction shall, when reassessing property for the 1983 and 1984 assessment years inquire of each property owner or tenant whether there are wells on the property, whether they are usable or abandoned and whether the wells are used for drainage purposes. The assessor shall provide the information collected on wells to the Iowa geological survey.

Approved April 19, 1982

CHAPTER 1086

MERGED AREAS COMBINED POSITIONS

H.F. 2390

AN ACT permitting merged areas to combine the positions of secretary and treasurer.

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

Section 1. Section 280A.13, Code 1981, is amended to read as follows:

280A.13 DIRECTORS OF MERGED AREA. In each merged area, the initial board of directors elected at the special election shall organize within fifteen days following the election and may thereafter proceed with the establishment of the designated area vocational school or area community college. The board of directors shall thereafter organize on the first Monday in October of each year. Organization of the board shall be effected by the election of a president and ~~such~~ other officers from the board membership as board members so determine. The board of directors shall appoint a secretary and a treasurer who shall each give bond as prescribed in section 291.2 and who shall each receive ~~such~~ the salary ~~as shall be~~ determined by the board. The secretary and treasurer shall perform ~~such~~ duties as ~~are~~ prescribed in chapter 291 and ~~such~~ additional duties ~~as~~ the board of directors ~~may deem~~ deems necessary. However, the board may appoint one person to serve as the secretary and treasurer. If one person serves as the secretary and treasurer, only one bond is necessary for that person. The frequency of meetings other than organizational meetings shall be as determined by the board of directors but the president or a majority of the members may call a special meeting at any time.

Sec. 2. Section 291.2, Code 1981, is amended to read as follows:

291.2* BONDS OF SECRETARY AND TREASURER. The secretary and treasurer shall each give bond to the school corporation in ~~such~~ the penalty ~~as~~ the board ~~may require~~ requires, and with sureties to be approved by ~~it~~ the board, which bond shall be filed with the president, conditioned for the faithful performance of the official duties of office, but in no case less than five hundred dollars. If one person serves as the secretary and the treasurer, pursuant to section 280A.13, only one bond is necessary for that person. The secretary and treasurer may give bond under a single blanket bond covering other employees of the district.

Approved April 19, 1982

*See also ch 1012 herein

CHAPTER 1087

SPECIAL ASSESSMENTS FOR CURB AND GUTTER REPLACEMENT

H.F. 2394

AN ACT relating to the replacement of curbing and gutters through the use of special assessments in cities with a population of less than ten thousand.

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

Section 1. Section 384.49, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To replace curbing and gutters in cities with a population of less than ten thousand, the council may adopt a preliminary resolution as provided in subsection 1. The description of the curbing and gutters to be replaced shall be prepared under the council's supervision. The council may, by resolution, provide for the computation of the assessments on the basis of the original assessment or of the lineal footage of the curbing and gutters to be replaced. Public improvements initiated under this subsection shall in all other respects comply with this division.

For purposes of this subsection, "replace" means to substitute new curb and gutter at the same location where old curb and gutter is located and being reconstructed due to deterioration or destruction. "Replace" does not include the reconstruction of curb and gutter to change the grade or reconstruction required because of a street widening project.

Approved April 19, 1982

CHAPTER 1088

DATE OF ANNUAL MEETING OF DIRECTORS OF AN AREA EDUCATION AGENCY

H.F. 2399

AN ACT relating to the date of the annual organization meeting of the board of directors of an area education agency.

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

Section 1. Section 273.8, subsection 3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The board of directors of each area education agency shall meet ~~on the first Monday in~~ at the first regular meeting in October of each year at a suitable place designated by the president. Directors whose terms commence at the organization meeting shall qualify by taking the oath of office required by section 279.31 at or before the organization meeting. ~~For the~~

~~initial board the location of the organization meeting shall be determined by the county superintendent who determined the date and location of the director district convention.~~

Approved April 19, 1982

CHAPTER 1089

WATERWORKS – AN ESSENTIAL CORPORATE PURPOSE

H.F. 2403

AN ACT including waterworks and related facilities within the definition of essential corporate purpose.

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

Section 1. Section 384.24, subsection 3, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. The acquisition, construction, reconstruction, improvement, repair, and equipping of waterworks, water mains, and extensions, and real and personal property, useful for providing potable water to residents of a city.

Approved April 19, 1982

CHAPTER 1090

OSKALOOSA SCHOOL DISTRICT LEGALIZING ACT

H.F. 2422

AN ACT to legalize the proceedings of the Oskaloosa community school district relating to a sale of land.

WHEREAS, the electors of the Oskaloosa community school district of Oskaloosa, Iowa, at the regular school election held September 12, 1978, authorized the sale of the following parcel of real estate:

Commencing at the southwest corner of lot seven of the subdivision of the southeast quarter of the southwest quarter of section 3, township 75, range 14, running thence north 13 1/3 rods, thence east 24 rods, thence south 13 1/3 rods to the south line of said lot seven, thence west 24 rods to place of beginning; and

WHEREAS, the Oskaloosa community school district subsequently entered into a contract

with Binns & Stevens Sprayers, Inc. for the sale of that real estate in accordance with the 1977 Code of Iowa; and,

WHEREAS, the abstract of title to that real estate shows that O. Willis Moore and Edith R. Moore conveyed that real estate to the independent school district of North White Oak by warranty deed dated October 15, 1918, and filed for record January 22, 1919, in book 105, page 304 of the records of the recorder's office of Mahaska county, Iowa; and,

WHEREAS, after January 12, 1919, the independent school district of North White Oak was reorganized into the Oskaloosa community school district and no conveyance of that real estate was made to the Oskaloosa community school district; and,

WHEREAS, now doubt has arisen concerning the validity of the proceedings of the independent school district of North White Oak and the proceedings of the Oskaloosa community school district relative to the described property and such doubt may raise an issue concerning the merchantability of the title to the property and the actions of the board of directors 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 directors of the independent school district of North White Oak and the directors of the Oskaloosa community school district pertaining to the sale of the described property are validated, legalized and confirmed and shall constitute a valid, legal, and binding sale of the above described property by the Oskaloosa community school district.

Approved April 19, 1982

CHAPTER 1091

ELECTION PRECINCTS, WARDS, AND SUPERVISOR DISTRICTS

H.F. 2431

AN ACT revising deadlines for drawing election precincts, wards, and supervisor districts and requiring maps of supervisor districts to be filed with the state commissioner of elections.

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

Section 1. Section 49.7, Code 1981, is amended to read as follows:

49.7 WHEN REPRECINCTING REQUIRED. Each county board of supervisors and city council shall make any changes in precinct boundaries necessary to comply with sections 49.3, 49.4 and 49.5 not earlier than July 1 nor later than ~~December 31~~ November 15 of the year immediately following each year in which the federal decennial census is taken, unless the general assembly by joint resolution establishes different dates for compliance with these sections. Any or all of the publications required by section 49.11 may be made after ~~December 31~~

November 15 if necessary. Each county board and city council shall notify the state commissioner and the commissioner whenever the boundaries of election precincts are changed and shall provide a map delineating the new boundary lines. Upon failure of ~~any~~ a county board or city council to make the required changes by the dates ~~established~~ specified by ~~or pursuant to~~ this section, the state commissioner shall make or cause to be made the necessary changes as soon as possible, and shall assess to the county or city, as the case may be, the expenses incurred in so doing. The state commissioner may request the services of personnel of and materials available to the legislative service bureau to assist ~~him~~ the state commissioner in making any required changes in election precinct boundaries which become ~~his~~ the state commissioner's responsibility.

Sec. 2. Section 331.203, subsection 2, paragraph b, Code 1981 Supplement, is amended to read as follows:

b. If plan "two" or plan "three" as defined in section 331.206 is in effect, the board shall divide the county into five equal-population districts by ~~November 1~~ December 15 of the year preceding the year of the next general election and at that general election, five board members shall be elected, two for initial terms of two years and three for four-year terms. The terms of the three incumbent supervisors shall expire on the date that the five-member board becomes effective.

Sec. 3. Section 331.204, subsection 3, Code 1981 Supplement, is amended to read as follows:

3. At the next general election following the one at which the proposition to reduce the membership of the board to three is approved, the membership of the board shall be elected according to the supervisor representation plan in effect in the county. If the supervisor representation plan includes equal-population districts, the district shall be designated by ~~November 1~~ December 15 of the year preceding the year of the next general election. One member of the board shall be elected to a two-year term and the remaining two members shall be elected to four-year terms. The length of the term for which a person is a candidate and the date when the term begins shall be indicated on the ballot.

Sec. 4. Section 331.209, subsections 1 and 3, Code 1981 Supplement, are amended to read as follows:

1. Before ~~November 1~~ December 15 of the nonelection year following each federal decennial census the board shall divide the county into a number of supervisor districts corresponding to the number of supervisors in the county. However, if the plan is selected pursuant to section 331.207, the board shall divide the county before March 15 of the election year. The supervisor districts shall be drawn, to the extent applicable, in compliance with the redistricting standards provided for legislative and congressional districts in section 42.4. If more than one incumbent supervisor resides in the same supervisor district after the districts have been redrawn following the federal decennial census, the terms of office of those supervisors shall expire on the ~~second~~ first day of January that is not a Sunday or a holiday following the next general election.

3. The board may redesignate supervisor districts only once in two years. If the board redesignates districts, the redesignation must be completed and available to the public by ~~November 1~~ December 15 of the year before the election to be applicable in that election year. This subsection does not lengthen or diminish the term of office of a member of the board as a result of the redesignation and districts shall not be redesignated except in compliance with this section.

Sec. 5. Section 331.209, Code 1981 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. Each county board shall notify the state commissioner whenever the boundaries of supervisor districts are changed and shall provide a map delineating the new boundary lines. Upon failure of a county board to make the required changes by the dates specified by this section, the state commissioner shall make or cause to be made the necessary changes as soon as possible, and shall assess to the county the expenses incurred in so doing. The state commissioner may request the services of personnel and materials available to the legislative service bureau to assist the state commissioner in making any required changes in supervisor district boundaries which become the state commissioner's responsibility.

Approved April 19, 1982

CHAPTER 1092

SPECIAL ELECTION TO APPROVE ADDITIONAL ENRICHMENT AMOUNT

H.F. 2432

AN ACT to provide for approval to raise an additional enrichment amount for a school district's budget at a special election.

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

Section 1. Section 442.14, subsection 2, Code 1981, is amended to read as follows:

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 school election held during September of the base year or at a special election held not later than February 15 of the base year. Only one election on the question shall be held during a twelve-month period. If a majority of those voting favors raising the enrichment amount, the board may include the approved amount in its certified budget.

Approved April 19, 1982

CHAPTER 1093

SUSPENSION OR CANCELLATION OF GRAIN DEALER OR WAREHOUSE LICENSE

H.F. 2448

AN ACT relating to the procedures for suspension or cancellation of a grain dealer or grain warehouse license.

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

Section 1. Section 542.3, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 180, section 4, is amended by adding the following new subsection:

NEW SUBSECTION. 7. a. When the net worth or current ratio of a licensee in good standing is less than that required by this section, the grain dealer shall correct the deficiency or file the necessary additional bond within thirty days of written notice by the commission. Unless the deficiency is corrected or the additional bond filed within thirty days, the grain dealer license shall be suspended.

b. If the commission finds that the welfare of grain producers requires emergency action, and incorporates a finding to that effect in its order, immediate suspension of the license may be ordered notwithstanding the thirty-day period otherwise allowed by paragraph a of this subsection.

Sec. 2. Section 543.11, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 180, section 23, is amended to read as follows:

~~Whenever~~ When the commission ~~shall determine~~ determines that a bond filed under ~~the provisions of~~ this chapter and approved by the commission, is, or has become, insufficient to secure the faithful performance of the obligations of the licensed warehouseman, or ~~whenever~~ when the commission ~~shall determine~~ determines 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 this chapter. If additional insurance is not provided within five days after receipt by the licensee of notice by certified mail, the license of the warehouseman concerned shall be automatically suspended. If additional insurance is not filed within another ten days, the warehouse license shall be automatically revoked. If additional bond is not provided within ~~a period as set by the commission, but not to exceed twenty~~ thirty days after receiving notice, the warehouse license shall be suspended. If additional bond is not filed within ten days following suspension, 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~~ the revocation. The commission shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation ~~as herein set forth~~. ~~Such~~ The notice shall be by ordinary mail sent to the last known address of each person having grain in storage as provided in this section.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Delaware County Leader, a newspaper published in Hopkinton, Iowa, and in The Pioneer-Republican, a newspaper published in Marengo, Iowa.

Approved April 19, 1982

I hereby certify that the foregoing Act, House File 2448 was published in the Delaware County Leader, Hopkinton, Iowa on April 29, 1982 and in The Pioneer-Republican, Marengo, Iowa on May 20, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1094

STATE BANK ELECTRONIC TRANSFER OF FUNDS

S.F. 2172

AN ACT relating to the electronic transfer of funds.

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

Section 1. Section 524.821, subsection 2, Code 1981, is amended to read as follows:

2. A state bank which offers its customers, or any of them, the opportunity to engage in transactions with or through the bank in the manner authorized by subsection 1 shall not require ~~any~~ a customer to deal with or through the bank in that manner in lieu of writing checks in the usual manner upon a conventional checking account, and shall not impose any extraordinary charge upon customers who choose to write checks in the usual manner upon a conventional checking account maintained at that bank. The term "extraordinary charge", as used in this subsection, is a charge in excess of a fair and reasonable charge, based upon the costs to the bank of providing and maintaining checking account services.

Sec. 2. Section 527.5, subsection 8, Code 1981, is amended by striking the subsection.

Approved April 22, 1982

CHAPTER 1095

LIFE INSURER'S INVESTMENT OF FUNDS FOR LEGAL RESERVES

S.F. 2242

AN ACT relating to a life insurance company's investment of funds for legal reserve purposes.

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

Section 1. Section 508.6, Code 1981, is amended to read as follows:

508.6 DEPOSIT OF SECURITIES—CERTIFICATE. Such securities shall be deposited with the commissioner of insurance ~~and when such~~ or at such places as the commissioner may designate. When the deposit is made and evidence furnished, by affidavit or otherwise, satisfactory to the commissioner, that the capital stock is all fully paid and the company possessed of the surplus required and that the company is the actual and unqualified owner of the securities representing the paid-up capital stock or other funds of the company, and all laws have been complied with, ~~he~~ the commissioner shall issue ~~to such~~ the company the certificate ~~hereinafter~~ provided for in this chapter.

Sec. 2. Section 511.8, subsection 14, Code 1981, is amended to read as follows:

14. URBAN REAL ESTATE AND PERSONAL PROPERTY. Personal or real property or both ~~personal or real property~~ located within the United States or the Dominion of Canada, other than real property used or to be used primarily for agricultural, horticultural, ranching or mining purposes, which produces income or which by suitable improvement will produce income~~, provided, however, that~~. However, personal property acquired under ~~the provisions of~~ this subsection ~~is~~ shall be acquired for the purpose of entering into a contract for the sale or for a use ~~thereof~~ under which the contractual payments may reasonably be expected to result in the recovery of the investment and an investment return within the anticipated useful life of the property. Legal title to ~~such~~ the real property may be acquired subject to a contract of sale. ~~The term "real~~ "Real property" as used in this subsection ~~shall include~~ includes a leasehold of real estate, an undivided interest in a leasehold of real estate, and an undivided interest in the fee title of real estate. Investments ~~made in accordance with the provisions of~~ under this subsection ~~shall~~ are not ~~be~~ eligible in excess of ten percent of the legal reserve.

Sec. 3. Section 511.8, subsection 16, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Securities in an amount not less than the legal reserve as defined in this section shall be deposited and ~~such~~ the deposit maintained with the commissioner of insurance~~, and it shall be the duty of the commissioner to designate such places for the keeping of said deposits~~ or at such places as the commissioner may designate as will properly safeguard ~~the same~~ them. There may be included in the deposit an amount of cash on hand not in excess of five percent of the deposit required, ~~such~~ that deposit to be evidenced by a certified check, certificate of deposit, or other evidence satisfactory to the commissioner of insurance. Deposits of securities may be made in excess of the amounts required ~~hereby~~ by this section. ~~No~~ A stock company organized under the laws of this state shall not be required to make ~~such~~ a deposit until the legal reserve, as ascertained by the commissioner, exceeds the amount deposited by it as capital. Real estate may be made a part of the deposit by furnishing evidence of ownership

satisfactory to the commissioner and by conveying the real estate to the commissioner or ~~his~~ the commissioner's successors in office by warranty deed~~, said real estate to be held by the~~. The commissioner and ~~his~~ the successors in office shall hold the real estate in trust for the benefit of the policyholders of the company or members of the association. Real estate mortgage loans and policy loans may be made a part of the deposit by filing a verified statement of the loans with the commissioner, which statement ~~shall be~~ is subject to check at the discretion of the commissioner.

Sec. 4. Section 511.8, subsection 18, Code 1981, is amended by striking the section* and inserting in lieu thereof the following:

18. COMMON STOCKS OR SHARES.

a. Common stocks or shares issued by solvent corporations or institutions are eligible if the total investment in stocks or shares in the corporations or institutions does not exceed ten percent of legal reserve provided not more than one-half percent of the legal reserve is invested in stocks or shares of any one corporation. However, the stocks or shares shall be listed or admitted to trading on a securities exchange in the United States or shall be publicly held and traded in the "over-the-counter market" and market quotations shall be readily available, and further, the investment shall not create a conflict of interest for an officer or director of the company between the insurance company and the corporation whose stocks or shares are purchased.

b. Common stocks or shares in a subsidiary corporation, the acquisition or purchase of which is authorized by section 508.33 are eligible if the total investment in these stocks or shares does not exceed five percent of the legal reserve. These stocks or shares are eligible even if the stocks or shares are not listed or admitted to trading on a securities exchange in the United States and are not publicly held and have not been traded in the "over-the- counter market". The stocks or shares shall be valued at their book value.

Sec. 5. Section 511.8, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Use of custodian banks, clearing corporations and the federal reserve book-entry system.

a. As used in this subsection:

(1) "Clearing corporation" means a corporation as defined in section 554.8102, subsection 3.

(2) "Custodian bank" means a federal or state bank or trust company regulated under the Iowa banking laws or the federal reserve system, which maintains an account in its name in a clearing corporation and acts as custodian of securities owned by a domestic insurer.

(3) "Federal reserve book-entry system" means the computerized system sponsored by the United States department of the treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and its agencies and instrumentalities, in the federal reserve banks through national banks, state banks, or trust companies, which either are members of the federal reserve system or otherwise have access to the computerized systems.

b. Securities deposited by a domestic insurance company with a custodian bank, or redeposited by a custodian bank with a clearing corporation, or held in the federal reserve book-entry system may be used to meet the deposit requirements of subsection 16. The commissioner shall adopt rules necessary to implement this section which:

(1) Establish guidelines on which the commissioner determines whether a custodian bank qualifies as a bank in which securities owned by an insurer may be deposited for the purpose of satisfying the requirements of subsection 16.

*According to enrolled Act.

(2) Designate those clearing corporations in which securities owned by insurers may be deposited.

(3) Set forth provisions that custodian agreements executed between custodian banks and insurers shall contain. These shall include provisions stating that minimum deposit levels shall be maintained and that the parties agree securities in deposits with custodian banks shall vest in the state in accordance with sections 508.17 and 508.18 whenever proceedings under those sections are instituted.

(4) Establish other safeguards applicable to the use of custodian banks and clearing corporations by insurers which the commissioner believes necessary to protect the policyholders of the insurers.

c. A security owned by a domestic insurer and deposited in a custodian bank or clearing corporation does not qualify for purposes of its legal reserve deposit unless the custodian bank and clearing corporation are approved by the commissioner for that purpose.

Approved April 22, 1982

CHAPTER 1096

CONTRACT PRICE OF BONDED PUBLIC IMPROVEMENTS

S.F. 2281

AN ACT relating to the contract price for construction of a public improvement which requires a bond.

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

Section 1. Section 573.2, Code 1981, is amended to read as follows:

573.2 PUBLIC IMPROVEMENTS—BOND AND CONDITIONS. Contracts for the construction of a public improvement shall, when the contract price equals or exceeds ~~five~~ twenty-five thousand dollars, be accompanied by a bond, with surety, conditioned for the faithful performance of the contract, and for the fulfillment of ~~such~~ other requirements as ~~may be~~ provided by law. ~~Such~~ The bond may also be required when the contract price does not equal ~~said~~ that amount.

Approved April 22, 1982

CHAPTER 1097

SPECIAL CHARTER CITIES NONPARTISAN ELECTIONS

S.F. 578

AN ACT authorizing certain special charter cities to adopt by election a nonpartisan form of city election.

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

Section 1. Section 43.112, unnumbered paragraph 1, Code 1981, is amended to read as follows:

This chapter shall, so far as applicable, govern the nominations of candidates by political parties for all offices to be filled by a direct vote of the people in cities acting under a special charter in 1973 and having a population of over fifty thousand, except all such cities as ~~adopt a plan of municipal government which specifically provides for a nonpartisan primary election~~ choose by special election to conduct nonpartisan city elections under the provisions of chapter 44, 45, or 376. An election on the question of conducting city elections in such a special charter city on a nonpartisan basis may be called by the city council on its own initiative, and shall be called by the council upon receipt of a petition of the voters which so requests and is presented in conformity with section 362.4, but a special election on that question shall be held concurrently with any election being held on the first Tuesday after the first Monday in November of any odd-numbered year.

Sec. 2. Section 376.3, Code 1981, is amended to read as follows:

376.3 NOMINATIONS. Candidates for elective city offices must be nominated as provided in sections 376.4 to 376.9 unless by ordinance a city chooses the provisions of chapters 44 or 45. However, a ~~special charter city may~~ city acting under a special charter in 1973 and having a population of over fifty thousand shall continue to hold partisan elections as provided in sections 43.112 to 43.118 and 420.126 to 420.137 unless the city by election as provided in section 43.112 chooses to conduct city elections under this chapter or chapter 44 or 45. The choice of one of these options by such a special charter city does not otherwise affect the validity of the city's charter. However, special charter cities which choose to exercise the option to conduct nonpartisan city elections may choose in the same manner the original decision was made, to resume holding city elections on a partisan basis.

Sec. 3. Section 420.137, Code 1981, is amended to read as follows:

420.137 APPLICABLE LAWS. All laws ~~or other provisions of the Code~~ governing political parties and the nomination of candidates in elections shall, as far as applicable, govern the political parties and nomination and election of candidates in cities acting under a special charter ~~which has~~ in 1973 and having a population of fifty thousand or more, except where such a city by election chooses to conduct city elections under chapter 44, 45, or 376.

Approved April 22, 1982

CHAPTER 1098

AREA EDUCATION AGENCIES MEDIA PRODUCTION EQUIPMENT AND FACILITIES

H.F. 2388

AN ACT repealing the provision that area education agencies must obtain approval from the state board of public instruction before purchase or lease of equipment or facilities for media production or reproduction, and the requirement that area education agencies must contract with the state educational radio or television facility board for television production, television transmission, or closed circuit television transmission.

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

Section 1. Section 273.10, Code 1981, is repealed.

Approved April 23, 1982

CHAPTER 1099

REGULATORY INFORMATION SERVICE

H.F. 2353

AN ACT to establish a regulatory information service in the Iowa development commission.

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

Section 1. NEW SECTION. REGULATORY INFORMATION SERVICE.

1. The Iowa development commission shall provide a regulatory information service. The purpose of the service shall be to provide a center of information where a person interested in establishing a commercial facility or engaging in a commercial activity may be informed of any registration, license, or other approval of a state regulatory agency that is required for that facility or activity or of the existence of standards, criteria, or requirements which the laws of this state require that facility or activity to meet.

2. Each state agency which requires a permit, license, or other regulatory approval or maintains standards or criteria with which an activity or facility must comply shall inform the Iowa development commission of the following:

a. The activity or facility that is subject to regulation.

b. The existence of any threshold levels which would exempt the activity or facility from regulation.

c. The nature of the regulatory program.

d. The amount of any fees.

e. How to apply for any permits or regulatory approvals.

f. A brief statement of the purpose of requiring the permit or regulatory approval or requiring compliance with the standards or criteria.

3. Each state agency shall promptly inform the Iowa development commission of any changes in the information provided under subsection 2 or the establishment of a new regulatory program. The information provided to or disseminated by the Iowa commission shall not be binding upon the regulatory program of a state agency; however, a person shall not be subject to the imposition of a penalty for failure to comply with a regulatory program if the person demonstrates that he or she relied upon information provided by the commission indicating compliance was not required and either ceases the activity upon notification by the regulatory agency or brings the activity or facility into compliance.

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

a. The commerce commission insofar as the information relates to public utilities.

b. The department of banking.

c. The office of the supervisor of savings and loan associations in the office of the auditor of state.

d. The credit union department.

Sec. 2. The Iowa development commission shall make the regulatory information service available for public use by January 1, 1983.

Approved May 21, 1982

CHAPTER 1100

CODE EDITOR'S CORRECTIONS

H.F. 2465

AN ACT correcting erroneous, inconsistent, or obsolete provisions of the Code.

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

Section 1. Section 144.37, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 64, section 6, is amended to read as follows:

For each ~~divorce~~ dissolution or annulment of marriage granted by any court in this state, a record shall be prepared by the clerk of court or by the petitioner or the petitioner's legal representative if directed by the clerk and filed by the clerk of court with the state registrar. The information necessary to prepare the report shall be furnished with the petition, to the clerk of court by the petitioner or the petitioner's legal representative, on forms supplied by the state registrar.

Sec. 2. Section 144.43, unnumbered paragraph 2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 64, section 10, is amended to read as follows:

However, the following vital statistics may be inspected and copied as of right under chapter 68A when they are in the custody of a county or of a local ~~register~~ registrar:

Sec. 3. Section 216.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

As used in this ~~division~~ chapter:

Sec. 4. Section 217.14, subsection 1, Code 1981, is amended to read as follows:

1. Administer and control the operation of the men's reformatory, women's reformatory and state penitentiary and the Iowa security and medical facility.

Sec. 5. Section 218.92, Code 1981, is amended to read as follows:

218.92 DANGEROUS MENTAL PATIENTS. ~~Whenever~~ When a patient in any state hospital-school for the mentally retarded, any mental health institute, or any institution under the administration of the director of the division of mental health of the department of social services, has become so mentally disturbed as to constitute a danger to self, to other patients in the institution or to the public, and the institution involved cannot provide adequate security, the director of mental health with the consent of the director of corrections of the department of social services may order the patient to be transferred to the Iowa security and medical facility, provided that the executive head of the institution from which the patient is to be transferred, with the support of a majority of ~~his~~ the medical staff recommends the transfer in the interest of the patient, other patients or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court which hospitalized the patient, as required by section 229.15, subsection 3. The Iowa security and medical facility ~~shall have~~ has the same rights, duties and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized there. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 6. Section 226.30, Code 1981, is amended to read as follows:

226.30 TRANSFER OF DANGEROUS PATIENTS. When a patient of any hospital for the mentally ill becomes incorrigible, and unmanageable to such an extent that ~~he~~ the patient is dangerous to the safety of others in the hospital, the state director may apply in writing to the district court or to any judge thereof, of the county in which ~~such~~ the hospital is situated, for an order to transfer ~~said~~ the patient to the Iowa security and medical facility and if ~~such~~ the order ~~be~~ is granted ~~such~~ the patient shall be so transferred. The county attorney of ~~said~~ the county shall appear in support of ~~such~~ the application on behalf of the state director.

Sec. 7. Section 229.1, subsection 8, paragraph c, Code 1981, is amended to read as follows:

c. Any other publicly supported hospital or institution, or part thereof, which is equipped and staffed to provide inpatient care to the mentally ill, except that this definition ~~shall~~ is not ~~be~~ applicable to the Iowa security and medical facility established by chapter 223.

Sec. 8. Section 235.3, subsection 8, Code 1981, is amended to read as follows:

8. License and inspect maternity hospitals, ~~private boarding homes for children,~~ and private child-placing agencies; make reports regarding ~~the same~~ them and revoke such licenses.

Sec. 9. Section 245.12, Code 1981, is amended to read as follows:

245.12 TRANSFER OF MENTALLY ILL. The ~~said~~ state director may cause any woman committed to ~~said~~ the reformatory and suspected of being mentally ill to be examined by one of the superintendents or ~~his~~ the superintendent's qualified designee of a state hospital for the mentally ill or transferred to the Iowa security and medical facility for examination. If the woman is found to be mentally ill, the department may order ~~such~~ the woman transferred to or retained at a state hospital or the Iowa security and medical facility where she shall thereafter be maintained and treated at the expense of the state until such time as she regains her good mental health when she shall be returned to ~~said~~ the reformatory. The cost of ~~such~~ transfer and return shall be paid as ~~heretofore~~ provided for other transfers.

Sec. 10. Section 246.3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The warden and other employees of the penitentiary, men's reformatory, medium security institution at Mount Pleasant, Luster Heights camp, Iowa security and medical facility, and Riverview release center shall receive ~~such~~ salaries or ~~such~~ compensation as ~~shall be~~ determined by the state director and in addition shall receive a midshift meal when on duty.

Sec. 11. Section 246.16, Code 1981, is amended to read as follows:

246.16 TRANSFER OF MENTALLY ILL. When the state director has cause to believe that a prisoner in the penitentiary or reformatory is mentally ill, the department may cause that prisoner to be transferred to the Iowa security and medical facility for examination, diagnosis, or treatment. The prisoner shall be confined at that institution or a state hospital for the mentally ill until the expiration of the prisoner's sentence or until the prisoner is pronounced in good mental health. If the prisoner is pronounced in good mental health before the expiration of ~~his or her~~ the prisoner's sentence, the prisoner shall be returned to the penitentiary or reformatory until the expiration of the prisoner's sentence. The provisions of the Code applicable to an inmate at the correctional institution from which the prisoner is transferred ~~shall~~ remain applicable during the inmate's stay at the Iowa security and medical facility. However, section 246.32 applies to the total inmate population, including both convicts and patients.

Sec. 12. Section 246.17, Code 1981, is amended to read as follows:

246.17 DISCHARGE OF MENTALLY ILL. When the state director has reason to believe that a prisoner in the penitentiary or ~~said~~ reformatory, whose sentence has expired, is mentally ill, it shall cause examination to be made of ~~such~~ the prisoner by competent physicians who shall certify to the state director whether ~~such~~ the prisoner is in good mental health or mentally ill. The state director may make further investigation and if satisfied that ~~he~~ the prisoner is mentally ill, ~~he~~ the state director may cause ~~him~~ the prisoner to be transferred to one of the hospitals for the mentally ill, or may order ~~him~~ the prisoner to be confined in the Iowa security and medical facility.

Sec. 13. Section 246.34, Code 1981, is amended to read as follows:

246.34 ESCAPE OF PRISONER. If a convict escapes from the penitentiary, Iowa security and medical facility or ~~the~~ men's reformatory, the warden or superintendent shall take all proper measures for ~~his~~ the convict's apprehension.

Sec. 14. Section 246.45, Code 1981, is amended to read as follows:

246.45 APPLICABILITY TO OTHER INSTITUTIONS. ~~The provisions of sections~~ Sections 246.38, 246.39, 246.41, 246.42, and 246.43 also apply to the inmates at the women's reformatory and the Iowa security and medical facility.

Sec. 15. Section 261.18, subsection 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 10, is amended to read as follows:

1. There is established a subvention program for resident students who are enrolled in the ~~college~~ university of osteopathic medicine and ~~surgery~~ health sciences of Des Moines, Iowa. The subvention program shall be administered by the commission in the manner provided in this section and section 261.19. The commission shall initiate an affirmative action program to ~~insure~~ ensure equal opportunity for participation by women, men, and minority students in the program provided for in this section and section 261.19.

Sec. 16. Section 307B.6, subsection 10, Code 1981, is amended to read as follows:

10. The counsel of the transportation regulation ~~board~~ authority and the attorney general's office shall provide legal services for the authority and the board unless a majority of the board deems outside counsel is required in a particular instance.

Sec. 17. Section 312.1, subsection 2, Code 1981, is amended to read as follows:

2. All the net proceeds of the motor vehicle fuel tax or license fees under chapter 324~~, except those net proceeds allocated to the primary road fund under section 324.79~~.

Sec. 18. Section 321.210, subsections 1 through 7, Code 1981, are amended to read as follows:

1. Has committed an offense for which mandatory revocation of license is required upon conviction.

2. Is an habitually reckless or negligent driver of a motor vehicle.

3. Is an habitual violator of the traffic laws.

4. Is physically or mentally incapable of safely operating a motor vehicle.

5. Has permitted an unlawful or fraudulent use of ~~such~~ the license.

6. Has committed an offense in another state which if committed in this state would be grounds for suspension or revocation.

7. Has committed a serious violation of the motor vehicle laws of this state.

8. Is subject to a license suspension under section 321.513.

Sec. 19. Section 321.210, subsection 8, Code 1981, as it appeared prior to the effective date of this Act, is amended by striking the subsection.

Sec. 20. Section 325.31, Code 1981, is amended to read as follows:

325.31 DISTINCTIVE MARKINGS ON VEHICLE. There shall be attached to each motor vehicle ~~such~~ distinctive markings or tags as ~~shall be~~ prescribed by the ~~board~~ authority.

Sec. 21. Section 327A.8, unnumbered paragraph 1, Code 1981, is amended to read as follows:

There shall be attached to each tank vehicle used for the intrastate transportation of liquid, distinctive markings or tags as ~~shall be~~ prescribed by the ~~board~~ authority.

Sec. 22. Section 441.21, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. All real and tangible personal property subject to taxation shall be valued at its actual value which shall be entered opposite each item, and, except as otherwise provided ~~herein for agricultural and residential property~~ in this section, shall be assessed at one hundred percent of ~~such~~ its actual value, and ~~such~~ the value so assessed shall be taken and considered as the assessed value and taxable value of ~~such~~ the property upon which the levy shall be made.

Sec. 23. Section 476.6, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 157, section 2, is amended to read as follows:

A public utility subject to rate regulation shall not make effective any new or changed rate, charge, schedule or regulation except by filing it with the commission at least thirty days prior to its effective date. The commission, for good cause shown, may allow changes in rates, charges, schedules or regulations to become effective on less than thirty days' notice. Any subscriber of a telephone exchange or service, who is declared to be legally blind under section 422.12~~(e)~~ subsection 1, paragraph e, ~~shall be~~ is exempt from any charges for telephone directory assistance that may be approved by the commerce commission.

Sec. 24. Section 502.102, subsection 2, paragraph a, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 163, section 1, is amended to read as follows:

a. Effecting transactions in a security exempted by section 502.202, subsection 1, 2, 3, 4, 6, 10, 11 or 12, or a security issued by an industrial loan company licensed under chapter 536A, ~~Code 1977~~;

Sec. 25. Section 562B.32, subsection 2, Code 1981, is amended to read as follows:

2. If the landlord acts in violation of subsection 1 of this section, the tenant is entitled to the remedies provided in section ~~562B.25~~ 562B.24 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.

Sec. 26. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 68, section 3, is amended to read as follows:

SEC. 3. Section 175.12, subsection 2 3, paragraph f, Code 1981, is amended to read as follows:

f. The authority determines that the beginning farmer is unable to secure financing from nongovernmental sources upon terms and conditions which the beginning farmer reasonably could be expected to fulfill.

Sec. 27. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 94, section 10, is amended to read as follows:

SEC. 10. Section 442.27, Code 1981, is amended by adding the following new subsection after subsection 3:

NEW SUBSECTION. For the school year beginning July 1, 1982 and succeeding school years, the total amount funded in each area for media services in the budget year shall be computed as provided in this subsection. For the school year beginning July 1, 1982, the total amount funded in each area for media services in the base year, including the cost for media resource material which shall only be used for the purchase or replacement of material required in section 273.6, subsection 1, paragraphs a, b, and c, shall be divided by the enrollment served in the base year to provide an area media services cost per pupil in the base year, and the state comptroller shall compute the state media services cost per pupil in the base year which is equal to the average of the area media services costs per pupil in the base year. For the year beginning July 1, 1982 and succeeding school years, the state comptroller shall compute the allowable growth for media services in the budget year by multiplying the state media services cost per pupil in the base year times the state percent of growth for the budget year, and the total amount funded in each area for media services cost in the budget year equals the area media services cost per pupil in the base year plus the allowable growth for media services in the budget year times the enrollment served in the budget year. Funds shall be paid to area education agencies as provided ~~to~~ in section 442.25.

Sec. 28. Section 331.756, subsection 60, Code 1981 Supplement, is amended to read as follows:

60. Assist, upon request, the transportation regulation ~~board~~ authority's legal counsel or the department of transportation's general counsel in the prosecution of violations of common carrier laws and regulations as provided in section 327C.30.

Approved April 30, 1982

CHAPTER 1101

COUNTY EXTENSION OFFICE ASSISTANTS GROUP INSURANCE COVERAGE

H.F. 2461

AN ACT relating to group insurance coverage for county extension office assistants.

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

Section 1. Section 331.324, Code 1981 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. If a board provides group insurance for county employees, it shall provide the insurance also to the following persons, subject to the conditions indicated:

a. A full-time county extension office assistant employed in the county, if the county is reimbursed for the premium by the county extension district.

b. A full-time certified court reporter, on the same percentage basis that the county is responsible for the reporter's compensation under section 605.9. However, group insurance may be obtained through only one of the counties in the judicial district, at the reporter's option, with a percentage contribution from the other counties for the employer's share of the premium, on the percentage basis provided under section 605.9.

Sec. 2. Section 509A.7, Code 1981, is amended to read as follows:

509A.7 EMPLOYEE DEFINED. The word employee" as used in this division ~~shall~~ does not include temporary or retired employees; ~~however, nothing herein shall be construed as preventing~~. However, this section does not prevent a retired employee from voluntarily continuing in force, at ~~his~~ the employee's own expense, an existing contract. ~~For purposes of group insurance, the word "employee" includes a full-time certified court reporter as an employee of each county within the judicial district which employs him, on a percentage basis as provided in section 605.9. However, group insurance for the certified court reporter may be obtained through only one of the counties within the district, at the reporter's option, with a percentage contribution from the other counties, on the basis provided in section 605.9, for the employer's share of the premium.~~

Approved May 11, 1982

CHAPTER 1102

ELDERLY INDEPENDENT GROUP HOME PROPOSAL

H.F. 2441

AN ACT requiring the department of social services to study and recommend a proposal relating to elderly independent group homes.

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

Section 1. Chapter 217, Code 1981, is amended by adding the following new section:

NEW SECTION. ELDERLY INDEPENDENT GROUP HOMES. The department of social services shall study and recommend to the general assembly by January 15, 1983 a proposal to provide an incentive for elderly citizens to live in elderly independent group homes to meet the needs of elderly citizens and at the same time postpone the need for the elderly citizens to reside in care facilities. The report of the study and recommendations shall include a summary of programs instituted by other states or private agencies within the state, specific proposals for funding, standards needed for the independent group homes, and other program priorities and requirements.

Approved April 23, 1982

CHAPTER 1103

LIMITED PARTNERSHIPS

H.F. 2407

AN ACT related to the uniform limited partnership Act.

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

ARTICLE 1

GENERAL PROVISIONS

Section 1. Sections 101 through 1106 of this Act are enacted as a new chapter.

Sec. 101. NEW SECTION. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Certificate of limited partnership" means the certificate referred to in section 201 of this Act, and the certificate as amended.

2. "Contribution" means cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in the partner's capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in section 402 of this Act.

4. "Foreign limited partnership" means a partnership formed under the laws of a state other than this state and having as partners one or more general partners and one or more limited partners.

5. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

6. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement and named in the certificate of limited partnership as a limited partner.

7. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

8. "Partner" means a limited or general partner.

9. "Partnership agreement" means a valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

10. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

Sec. 102. NEW SECTION. NAME. The name of each limited partnership as set forth in its certificate of limited partnership:

1. Shall contain without abbreviation the words "limited partnership".

2. Shall not contain the name of a limited partner unless either or both of the following apply:

a. That name is also the name of a general partner or the corporate name of a corporate general partner.

b. The business of the limited partnership had been carried on under that name before admission of that limited partner.

3. Shall not contain any word or phrase indicating or implying that the limited partnership is organized other than for a purpose stated in its certificate of limited partnership.

4. Shall not be the same as or deceptively similar to the name of a corporation or limited partnership organized under the laws of this state or licensed or registered as a foreign corporation or foreign limited partnership in this state or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, without the written consent of the corporation or limited partnership which consent shall be filed with the secretary of state and provided the name is not identical.

5. Shall not contain either the word "corporation" or the word "incorporated" or an abbreviation of either.

Sec. 103. NEW SECTION. RESERVATION OF NAME.

1. The exclusive right to the use of a name may be reserved by any of the following:

a. A person intending to organize a limited partnership under this chapter and to adopt that name.

b. A domestic limited partnership or a foreign limited partnership registered in this state which, in either case, intends to adopt that name.

c. A foreign limited partnership intending to register in this state and adopt that name.

d. A person intending to organize a foreign limited partnership and intending to have it register in this state and adopt that name.

2. The reservation shall be made by filing with the secretary of state an application to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, the secretary shall reserve the name for the exclusive use of the applicant for a period of ninety days. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

Sec. 104. NEW SECTION. SPECIFIED OFFICE AND AGENT.

1. A limited partnership shall continuously maintain in this state both of the following:

a. An office, which may, but need not be, a place of its business in this state. The records required to be maintained by section 105 of this Act shall be kept at the office.

b. An agent for service of process on the limited partnership. The agent shall be either an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state.

2. In addition to other statutory provisions relating to venue, an action may be brought against a limited partnership in the county where its office is maintained or, if a limited partnership fails to maintain an office in this state, then in any county within the state.

Sec. 105. NEW SECTION. RECORDS TO BE KEPT. A limited partnership shall keep at the office required under section 104, subsection 1 of this Act all of the following:

1. A current list of the full name and last known business address of each partner.

2. A copy of the certificate of limited partnership and all amendments to the certificate together with any executed powers of attorney pursuant to which a certificate or amendment has been executed.

3. Copies of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years.

4. Copies of any written partnership agreements in effect and of any financial statements of the limited partnership for the three most recent years.

Any partner may inspect and copy the records required to be kept under subsections 1 through 4 provided that the partner's request to inspect and copy is reasonable and done at the partner's expense.

Sec. 106. NEW SECTION. NATURE OF BUSINESS. A limited partnership may carry on any business that a partnership without limited partners may carry on.

Sec. 107. NEW SECTION. BUSINESS TRANSACTIONS OF PARTNER WITH PARTNERSHIP. Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect to such transactions as a person who is not a partner.

ARTICLE 2

FORMATION, CERTIFICATE OF LIMITED PARTNERSHIP

Sec. 201. NEW SECTION. CERTIFICATE OF LIMITED PARTNERSHIP.

1. In order to form a limited partnership two or more persons shall execute a certificate of limited partnership. The certificate shall be filed in the office of the secretary of state and set forth all of the following:

a. The name of the limited partnership.

b. The general character of its business.

c. The address of the office and the name and address of the agent for service of process required to be maintained by section 104, subsection 2 of this Act, and the address of its principal place of business.

d. The name and the business address of each partner, specifying separately the general partners and limited partners.

e. The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute in the future.

f. The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made.

g. A power of a limited partner to grant the right to become a limited partner to an assignee of any part of the partner's partnership interest, and the terms and conditions of the power.

h. If agreed upon, the time at which or the events on the happening of which a partner may withdraw from the limited partnership and the amount of, or the method of determining the amount of, the distribution to which the partner may be entitled respecting the partnership interest, and the terms and conditions of the termination and distribution.

i. A right of a partner to receive distributions of property, including cash from the limited partnership.

j. A right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution.

k. A time at which, or an event upon the happening of which, the limited partnership is to be dissolved and its affairs wound up.

l. A right of the remaining general partners to continue the business on the happening of an event of withdrawal of a general partner.

m. Other matters the partners determine to include in the certificate.

2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at a later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

Sec. 202. NEW SECTION. AMENDMENT TO CERTIFICATE.

1. A certificate of limited partnership is amended by filing a certificate of amendment in the office of the secretary of state. The certificate of amendment shall set forth all of the following:

a. The name of the limited partnership.

b. The date of filing the certificate of limited partnership.

c. The amendment to the certificate of limited partnership.

2. Except as provided in subsection 5, within thirty days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event shall be filed:

a. A change in the amount or character of the contribution of a partner, or in a partner's obligation to make a contribution.

b. The admission of a new general partner.

c. The continuation of the business under section 801 of this Act after an event of withdrawal of a general partner.

3. A general partner who becomes aware that a statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate. An amendment to show the admission of or a change of address of a limited partner shall be filed within twelve months of the admission or change of address.

4. A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

5. An amendment is not required to reflect distributions made pursuant to rights described in section 201, subsection 1, paragraph j of this Act.

6. A limited partner is not liable because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of an event referred to in subsection 2 if the amendment is filed within the thirty-day period specified in subsection 2.

Sec. 203. NEW SECTION. CANCELLATION OF CERTIFICATE. A certificate of limited partnership shall be canceled upon the dissolution and the commencement of winding up of the partnership or at any other time there are no limited partners. A certificate of cancellation shall be filed in the office of the secretary of state and shall set forth all of the following:

1. The name of the limited partnership.

2. The date of filing of the partnership's certificate of limited partnership.

3. The reason for filing the certificate of cancellation.

4. The effective date, which shall be a date certain, of cancellation if it is not to be effective upon the filing of the certificate.

5. Other information the general partners filing the certificate determine.

Sec. 204. NEW SECTION. EXECUTION OF CERTIFICATES.

1. Each certificate required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner:

a. An original certificate of limited partnership shall be signed by all partners named in the certificate.

b. A certificate of amendment shall be signed by at least one general partner and by each other partner designated in the certificate as a new partner or whose contribution is described as having been increased.

c. A certificate of cancellation shall be signed by all general partners.

2. A person may sign a certificate by an attorney-in-fact.

3. The execution of a certificate by a general partner is the making of a statement under oath or affirmation in a matter in which statements under oath or affirmation are required, within the meaning of section 720.2.

Sec. 205. NEW SECTION. AMENDMENT OR CANCELLATION BY JUDICIAL ACT. If a person required by section 204 of this Act to execute a certificate of amendment or cancellation fails or refuses to do so, any other partner, or any assignee of a partnership interest, who is adversely affected by the failure or refusal may petition the Iowa district court for the county in which the office described in section 104 of this Act is located to direct the amendment or cancellation. If the court finds that the amendment or cancellation is proper and that a person so designated has failed or refused to execute the certificate, the court shall order the secretary of state to record an appropriate certificate of amendment or cancellation.

Sec. 206. NEW SECTION. FILING IN OFFICE OF SECRETARY OF STATE AND OFFICE OF THE COUNTY RECORDER. A signed copy of the certificate of limited partnership and a signed copy of any certificate of amendment or cancellation or of any judicial decree of amendment or cancellation shall be delivered for filing and recording as provided in this subsection. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of that authority as a prerequisite to filing. It is required that each document required to be filed and recorded be:

1. Filed in the office of the secretary of state. When the secretary of state finds that the document conforms to law and when all fees and taxes due have been paid the secretary shall endorse on the document, the word "Filed", and the month, day, and year of the filing and file the same in the secretary's office.

2. Recorded in the office of the secretary of state at the time it is filed.

3. Filed and recorded in the office of the county recorder. The secretary of state upon recording the document shall forward the document to the county recorder of the county where the office required to be maintained under section 104 of this Act is located, and shall forward a copy certified as a true copy of the filed original to any other county recorder, if any, as is required by this chapter. Upon receipt of the document and upon receipt of the recording fees due, the county recorder shall record and index the copy and endorse the date of filing in the county, and the book and page in which recorded, on the copy. The recorder of each county shall keep in the recorder's office an alphabetically subdivided index book for certificates of limited partnership and other instruments the recording of which in the recorder's office is provided for by this chapter, which book shall have as a minimum, columns headed with "Name of Limited Partnership", "Place of Office", "Day, Month, and Year of Filing" and the reference to the book and page or other record where recorded and shall make appropriate entries in the index for each instrument recorded.

Upon the filing of a certificate of amendment or judicial decree of amendment in the office of the secretary of state, if as amended it is in substantial compliance with this chapter, the certificate of limited partnership is amended as set forth in the amendment. Upon the effective date of a certificate of cancellation or a judicial decree of cancellation, the certificate of limited partnership is canceled.

Sec. 207. NEW SECTION. LIABILITY FOR FALSE STATEMENT IN CERTIFICATE. If a certificate of limited partnership or certificate of amendment or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from either of the following:

1. A person who executes the certificate, or causes another to execute it on the person's behalf, and knew, and a general partner who knew or should have known, the statement to be false at the time the certificate was executed.

2. A general partner who knows or should have known that an arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect, within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under section 205 of this Act.

Sec. 208. NEW SECTION. NOTICE. The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership claims to be a limited partnership, but it is not notice of any other fact.

ARTICLE 3

LIMITED PARTNERS

Sec. 301. NEW SECTION. ADMISSION OF NEW LIMITED PARTNERS.

1. After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as a new limited partner under the following conditions:

a. In the case of a person acquiring a partnership interest directly from the limited partnership, upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners.

b. In the case of an assignee of a partnership interest of a partner who has the power, as provided in section 704 of this Act to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

2. Under both paragraphs a and b of subsection 1, the person acquiring the partnership interest becomes a limited partner at the time specified in the certificate of limited partnership or, if a time is not specified, upon amendment of the certificate of limited partnership to show the partnership interest.

Sec. 302. NEW SECTION. VOTING. Subject to section 303 of this Act, the partnership agreement may grant all or a specified group of the limited partners the right to vote on a per capita or other basis upon any matter.

Sec. 303. NEW SECTION. LIABILITY TO THIRD PARTIES.

1. Except as provided in subsection 4, a limited partner is not liable for the obligations of a limited partnership unless the limited partner is also a general partner or, in addition to the exercise of the limited partner's rights and powers as a limited partner, the limited partner takes part in the control of the business. However, if the limited partner's participation in the control of the business is not substantially the same as the exercise of the powers of a general partner, the limited partner is liable only to persons who transact business with the limited partnership with actual knowledge of the limited partner's participation in control.

2. A limited partner does not participate in the control of the business within the meaning of subsection 1 solely by doing one or more of the following:

a. Being a contractor for or an agent or employee of the limited partnership.

b. Being a contractor for or an agent, employee, director, officer, or shareholder of or a limited partner of a general partner.

c. Consulting with and advising a general partner with respect to the business of the limited partnership.

d. Acting as surety for the limited partnership.

e. Approving or disapproving an amendment to the partnership agreement.

f. Voting on one or more of the following matters:

(1) The dissolution and winding up of the limited partnership.

(2) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all the assets of the limited partnership other than in the ordinary course of its business.

(3) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business.

(4) A change in the nature of the business.

(5) The removal of a general partner.

3. The enumeration in subsection 2 does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by the limited partner in the business of the limited partnership.

4. A limited partner who knowingly permits the limited partner's name to be used in the name of the limited partnership, except under circumstances permitted by section 102, subsection 2, paragraph a of this Act, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

Sec. 304. NEW SECTION. PERSON ERRONEOUSLY BELIEVING SELF TO BE A LIMITED PARTNER.

1. Except as provided in subsection 2, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, on ascertaining the mistake, the person does either of the following:

a. Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

b. Withdraws from future equity participation in the enterprise.

2. A person who makes a contribution of the kind described in subsection 1 is liable as a general partner to a third party who, believing the person to be a general partner, transacts business with the enterprise before an appropriate certificate is filed and before either of the following:

a. The person withdraws and an appropriate certificate is filed to show the withdrawal.

b. An appropriate certificate is filed to show the person's status as a limited partner and, in the case of an amendment, after expiration of the period for filing the amendment relating to the person as a limited partner under section 202 of this Act.

Sec. 305. NEW SECTION. INFORMATION. Each limited partner may:

1. Inspect and copy the partnership records required to be maintained by section 105 of this Act and any of the partnership books.

2. Obtain from the general partners upon reasonable demand the following:

a. True and full information regarding the state of the business and financial condition of the limited partnership.

b. Copies of the limited partnership's federal, state, and local tax returns.

c. Other information regarding the affairs of the limited partnership as is just and reasonable.

ARTICLE 4

GENERAL PARTNERS

Sec. 401. NEW SECTION. ADMISSION OF ADDITIONAL GENERAL PARTNERS. After the filing of a limited partnership's original certificate of limited partnership, additional general partners shall be admitted only with the specific written consent of each partner. However, if the certificate of limited partnership or the partnership agreement names a person to be admitted as a general partner upon the occurrence of a specified circumstance or at a specified time, the consent required is deemed to have been given.

Sec. 402. NEW SECTION. EVENTS OF WITHDRAWAL. Except as otherwise agreed in writing by all partners at the time of the event, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

1. The general partner withdraws from the limited partnership as provided in section 602 of this Act.

2. The general partner is removed as a general partner in accordance with the partnership agreement.

3. Unless otherwise provided in the certificate of limited partnership, the general partner does any of the following:

a. Makes an assignment for the benefit of creditors.

b. Files a voluntary petition in bankruptcy.

c. Is adjudicated a bankrupt or insolvent.

d. Files a petition or answer seeking for the general partner reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation.

e. Files an answer or other pleading admitting or failing to contest material allegations of a petition filed against the general partner in a proceeding of a nature specified in paragraph d.

f. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or a substantial part of the general partner's properties.

4. Unless otherwise provided in the certificate of limited partnership, upon the expiration of the following time periods:

a. One hundred twenty days after the commencement of a proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief, under any statute, law, or regulation, if the proceeding has not been dismissed within that time.

b. Ninety days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or a substantial part of the general partner's properties, if the appointment is not vacated or stayed within that time.

c. If an appointment of the nature specified in paragraph b is stayed and if the appointment is not then vacated, ninety days after the expiration of the stay.

5. If the general partner is a natural person when either of the following occur:

a. The general partner dies.

b. The district court finds the general partner incapable of managing the general partner's person or property.

6. If the general partner is acting as a general partner by virtue of being a trustee of a trust, when the trust terminates. Substitution of a new trustee is not termination of the trust.

7. If the general partner is a separate partnership, the dissolution and commencement of winding up of the separate partnership.

8. If the general partner is a corporation, the filing of a certificate of dissolution for the corporation or revocation of the corporation's charter.

9. In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

Sec. 403. NEW SECTION. GENERAL POWERS AND LIABILITIES. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner in a partnership without limited partners.

Sec. 404. NEW SECTION. CONTRIBUTIONS BY GENERAL PARTNER. A general partner of a limited partnership may make contributions to the partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of the person's participation in the partnership as a limited partner.

Sec. 405. NEW SECTION. VOTING. The partnership agreement may grant to all or certain identified general partners the right to vote on any basis, separately or with all or any class of the limited partners, on any matter.

ARTICLE 5

FINANCE

Sec. 501. NEW SECTION. FORM OF CONTRIBUTION. The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

Sec. 502. NEW SECTION. LIABILITY FOR CONTRIBUTION. Except as provided in the certificate of limited partnership, a partner is obligated to the limited partnership to perform a promise to contribute cash or property or to perform services even if the partner is unable to perform because of death, disability, or any other reason. If the partner does not make the contribution, the limited partnership may require the partner to contribute cash equal to that portion of the value, as stated in the certificate of limited partnership, of the stated contribution that has not been made.

Sec. 503. NEW SECTION. SHARING OF PROFITS AND LOSSES. The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the value, as stated in the certificate of limited partnership, of the contributions made by each partner to the extent the contributions have been received by the partnership and have not been returned.

Sec. 504. NEW SECTION. SHARING OF DISTRIBUTIONS. Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the value, as stated in the certificate of limited partnership, of the contributions made by each partner to the extent the contributions have been received by the partnership and have not been returned.

ARTICLE 6

DISTRIBUTIONS AND WITHDRAWAL

Sec. 601. NEW SECTION. INTERIM DISTRIBUTIONS. Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before the partner's withdrawal from the limited partnership and before the dissolution and winding up of the partnership subject to the following conditions:

1. To the extent and at the times or upon the happening of the events specified in the partnership agreement.

2. If a distribution is a return of part of the partner's contribution under section 608, subsection 2 of this Act, to the extent and at the times or upon the happening of the events specified in the certificate of limited partnership.

Sec. 602. NEW SECTION. WITHDRAWAL OF GENERAL PARTNER. A general partner may withdraw from a limited partnership by giving written notice to the other partners, but, if the withdrawal violates the partnership agreement, in addition to its other remedies the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to the partner.

Sec. 603. NEW SECTION. WITHDRAWAL OF LIMITED PARTNER. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in the certificate of limited partnership and in accordance with the partnership agreement. If the certificate does not specify the time or the events upon the happening of which a limited partner may withdraw or a time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months prior written notice directed or delivered to the partnership or to each general partner at the partner's address on the books of the limited partnership at its office in this state.

Sec. 604. NEW SECTION. DISTRIBUTION UPON WITHDRAWAL. Except as provided in this article, upon withdrawal a partner is entitled to receive any distribution to which the partner is entitled under the partnership agreement and, if not otherwise provided in the agreement, the partner is entitled to receive, within a reasonable time after withdrawal, the fair value of the partner's interest in the limited partnership as of the date of withdrawal, based upon the partner's right to share in distributions from the limited partnership.

Sec. 605. NEW SECTION. DISTRIBUTION IN KIND. Except as provided in the certificate of limited partnership, a partner, regardless of the nature of the partner's contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner shall not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset which is equal to the percentage in which the partner shares in distributions from the limited partnership.

Sec. 606. NEW SECTION. RIGHT TO DISTRIBUTION. When a partner becomes entitled to receive a distribution, the partner has the status of a creditor of the limited partnership and is entitled to all remedies available to a creditor with respect to the distribution.

Sec. 607. NEW SECTION. LIMITATIONS ON DISTRIBUTION. A partner shall not receive a distribution if, after the distribution, liabilities of the limited partnership other than liabilities to partners on account of their partnership interests will exceed the fair value of the partnership assets.

Sec. 608. NEW SECTION. LIABILITY UPON RETURN OF CONTRIBUTION.

1. If a partner has received the return of a part of the partner's contribution without violation of the partnership agreement or this chapter, for one year after the return, the partner is liable to the limited partnership for the amount of the returned contribution to the extent necessary to discharge the limited partnership's liabilities to creditors who extended credit to the limited partnership during the period the contribution was held by the partnership.

2. If a partner has received the return of any part of the partner's contribution in violation of the partnership agreement or this chapter, for six years after the return, the partner is liable to the limited partnership for the amount of the contribution wrongfully returned.

3. A partner receives a return of contribution only to the extent that a distribution to the partner reduces the partner's share of the fair value, as specified in the certificate of limited partnership, of the partner's contribution which has not been distributed to the partner.

ARTICLE 7

ASSIGNMENT OF PARTNERSHIP INTERESTS

Sec. 701. NEW SECTION. NATURE OF PARTNERSHIP INTEREST. A partnership interest is personal property.

Sec. 702. NEW SECTION. ASSIGNMENT OF PARTNERSHIP INTEREST. Except as provided in the partnership agreement, a partnership interest is assignable in whole or in part. An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled.

Sec. 703. NEW SECTION. RIGHTS OF CREDITOR. A judgment creditor of a partner may bring an action in the district court charging the partnership interest of the partner with payment of the unsatisfied amount of the judgment. To the extent the court so charges, the judgment creditor has only the rights of an assignee of the partnership interest. This chapter does not deprive a partner of the benefit of exemption laws applicable to the partner's interest.

Sec. 704. NEW SECTION. RIGHT OF ASSIGNEE TO BECOME LIMITED PARTNER.

1. An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner under any of the following conditions:

a. When the certificate of limited partnership so provides, if the assignor gives the assignee the right to become a limited partner in the manner specified in the agreement.

b. When the partnership agreement so provides, if persons required to consent to the assignee becoming a limited partner consent in the manner specified in the agreement.

c. All partners other than the assignor of the interest consent to the assignee becoming a limited partner.

2. An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make and return contributions as provided in article 6 of this chapter. However, the assignee is not obligated for liabilities unknown to the assignee at the time the assignee became a limited partner and which could not be ascertained from the certificate of limited partnership.

3. The fact that an assignee of a partnership interest has become a limited partner does not

release the assignor from the assignor's liability to the limited partnership under sections 207 and 502 of this Act.

Sec. 705. NEW SECTION. POWER OF ESTATE OF DECEASED OR INCOMPETENT PARTNER. If a partner who is an individual dies or a court of competent jurisdiction adjudges the partner incapable of managing the partner's person or property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling the estate or administering the property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

ARTICLE 8

DISSOLUTION

Sec. 801. NEW SECTION. NONJUDICIAL DISSOLUTION.

1. A limited partnership is dissolved and its affairs shall be wound up when any of the following occur:

a. When events specified in the certificate of limited partnership occur.

b. When all partners consent in writing to the dissolution.

c. When a general partner withdraws unless at the time there is at least one other general partner and the certificate of limited partnership permits the business of the limited partnership to be carried on by the remaining general partner and the remaining partner does so.

d. When a decree of judicial dissolution is entered under section 802 of this Act.

2. When a general partner withdraws, the limited partnership is not dissolved and is not required to dissolve under either of the following conditions:

a. If all partners previously have consented to the designation of a person as a general partner as provided in section 401 of this Act.

b. If all partners, within ninety days after the withdrawal, agree in writing to continue the business of the limited partnership and to the appointment of one or more additional partners as necessary or desired.

Sec. 802. NEW SECTION. JUDICIAL DISSOLUTION. On application by or for a partner, the district court for the county in which the office described in section 104 of this Act is located may decree dissolution of a limited partnership whenever it is not reasonably practicable to carry on the business of the limited partnership in conformity with the partnership agreement.

Sec. 803. NEW SECTION. WINDING UP. Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs. Also, upon application of a partner, a partner's legal representative, or a partner's assignee, the district court for the county in which the office described in section 104 of this Act is located may wind up the limited partnership's affairs.

Sec. 804. NEW SECTION. ORDER OF DISTRIBUTION OF ASSETS. Upon the winding up of a limited partnership, the assets shall be distributed in the following order:

1. To creditors, including partners who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distributions to partners under section 601 or 604 of this Act.

2. Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under section 601 or 604 of this Act.

3. Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

ARTICLE 9
FOREIGN LIMITED PARTNERSHIPS

Sec. 901. NEW SECTION. LAW GOVERNING. The laws of the state under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners. A foreign limited partnership shall not be denied registration by reason of a difference between those laws and the laws of this state.

Sec. 902. NEW SECTION. REGISTRATION. Before transacting business in this state, a foreign limited partnerhip* shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth all of the following:

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state.
2. The state and date of its formation.
3. The general character of the business it proposes to transact in this state.
4. The name and address of an agent for service of process on the foreign limited partnership. The agent shall be either an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in and authorized to do business in this state.
5. A statement that the secretary of state is the agent of the foreign limited partnership for service of process if an agent has not been appointed under subsection 4 or, if appointed, the agent's authority has been revoked, or if the agent cannot be found or served with the exercise of reasonable diligence.
6. The address of the office required to be maintained in the state of its organization by the laws of that state or, if such an office is not required, the address of the principal office of the foreign limited partnership.
7. If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and business addresses of the partners, a list of those names and addresses.

Sec. 903. NEW SECTION. ISSUANCE OF REGISTRATION.

1. If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary shall do all of the following:
   a. Endorse on the application the word "Filed", and the month, day, and year of the filing.
   b. File and record the application in the secretary's office.
   c. Issue a certificate of registration to transact business in this state.
2. The certificate of registration, together with the original of the application, shall be returned to the person who filed the application or the person's representative.

Sec. 904. NEW SECTION. NAME. A foreign limited partnership may register with the secretary of state under any name that could be registered by a domestic limited partnership even if it is not the name under which it is registered in its state of organization.

Sec. 905. NEW SECTION. CHANGES AND AMENDMENTS. If a statement in the application for registration of a foreign limited partnership was false when made or an arrangement or other fact described has changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting the statement.

Sec. 906. NEW SECTION. CANCELLATION OF REGISTRATION. A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in this state.

*According to enrolled Act

Sec. 907. NEW SECTION. TRANSACTION OF BUSINESS WITHOUT REGISTRATION.

1. A foreign limited partnership transacting business in this state shall not maintain a proceeding in the courts of this state until the partnership has registered in this state.

2. The failure of a foreign limited partnership to register in this state does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending a proceeding in the courts of this state.

3. A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in the state without registration.

4. A foreign limited partnership, by transacting business in this state without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

Sec. 908. NEW SECTION. ACTION BY THE ATTORNEY GENERAL. The attorney general may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of this chapter.

ARTICLE 10

DERIVATIVE ACTIONS

Sec. 1001. NEW SECTION. RIGHT OF ACTION. A limited partner has standing to bring an action to recover a judgment in the limited partnership's favor if general partners with authority to bring the action have refused to do so or if an effort to cause those general partners to bring the action is not likely to succeed.

Sec. 1002. NEW SECTION. PROPER PLAINTIFF. In a derivative action, the plaintiff shall be a partner at the time of bringing the action and either shall have been a partner at the time the cause of action arose or shall have acquired the status of partner by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time the cause of action arose.

Sec. 1003. NEW SECTION. PLEADING. In a derivative action, the petition shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

Sec. 1004. NEW SECTION. EXPENSES. If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited partnership the remainder of those proceeds received by the plaintiff.

ARTICLE 11

MISCELLANEOUS

Sec. 1101. NEW SECTION. CONSTRUCTION AND APPLICATION. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to limited partnerships among states enacting it.

Sec. 1102. NEW SECTION. SHORT TITLE. This chapter may be cited as the Iowa uniform limited partnership Act.

Sec. 1103. NEW SECTION. CASES NOT PROVIDED FOR IN THIS CHAPTER. In a case not provided for in this chapter, chapter 544 governs.

Sec. 1104. NEW SECTION. EFFECT ON EXISTING LIMITED PARTNERSHIPS. This chapter does not invalidate provisions in limited partnership agreements or certificates executed prior to the effective date of this Act.

Sec. 1105. NEW SECTION. FEES. The secretary of state shall charge the fee specified for filing the following:

1. Certificates of limited partnership: one hundred dollars.

2. Applications for registration of foreign limited partnerships and also issuance of a certificate of registration to transact business in this state: one hundred dollars.

3. Amendments to certificates of limited partnerships or to applications for registration of foreign limited partnerships: twenty dollars.

4. Cancellations of certificates of limited partnerships or of registration of foreign limited partnerships: twenty dollars.

5. A consent required to be filed under this chapter: twenty dollars.

Sec. 1106. NEW SECTION. CERTIFICATES FILED WITH THE COUNTY RECORDER. After July 1, 1983, county recorders shall promptly send to the secretary of state copies of all limited partnership certificates and amendments to the certificates which are in effect on that date and which were filed prior to July 1, 1982.

Sec. 1107. Chapter 545, Code 1981, is repealed.

Sec. 1108. Section 172C.1, subsection 2, Code 1981, is amended to read as follows:

2. "Limited partnership" means a partnership as defined in ~~chapter 545~~ section 101, subsection 7 of this Act which owns or leases agricultural land or is engaged in farming.

Sec. 1109. Section 229.27, subsection 1, Code 1981, is amended to read as follows:

1. Hospitalization of a person under this chapter, either voluntarily or involuntarily, does not constitute a finding of nor equate with nor raise a presumption of incompetency, nor cause the person so hospitalized to be deemed a person of unsound mind nor a person under legal disability for any purpose including but not limited to any circumstances to which sections 447.7, 472.15, ~~545.2, subsection 13, 545.11, subsection 7, 545.36, 567.7~~ section 402, subsection 5, paragraph b of this Act, section 705 of this Act, 595.3, 597.6, 598.29, 614.8, 614.19, 614.22, 614.24, 614.27, 622.6, 633.244, and 675.21 are applicable.

Sec. 1110. Section 422.15, subsection 2, Code 1981, is amended to read as follows:

2. Every partnership including limited partnerships organized under ~~provisions of chapter 545~~ sections 101 through 1106 of this Act, having a place of business in the state, shall make a return, stating specifically the net income and capital gains (or losses) reported on the federal partnership return, the names and addresses of the partners, and their respective shares in said amounts.

Sec. 1111. Section 422.32, subsection 1, Code 1981, is amended to read as follows:

1. The word "corporation" includes joint stock companies, and associations organized for pecuniary profit, except limited partnerships organized under ~~chapter 545~~ sections 101 through 1106 of this Act.

Approved May 6, 1982

CHAPTER 1104

COUNTY HOME RULE AMENDMENTS

H.F. 2387

AN ACT relating to county government by making amendments which are required for accuracy or to reconcile the county home rule Act and other laws or to implement the legislative intent of the county home rule Act.

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

Section 1. Section 12.9, Code 1981, is amended to read as follows:

12.9 ANNUAL REPORT OF FILING FEES. The treasurer of state shall annually report to the governor and the general assembly the total amount of fees and costs received by the treasurer of state under section 602.55, subsection 1, and section ~~606.15~~ 331.705, subsection 1, paragraphs a through ad for the fiscal year ending June 30. The report shall be submitted within ninety days following the completion of the fiscal year.

Sec. 2. Section 37.28, Code 1981 Supplement, is amended to read as follows:

37.28 ANTICIPATORY WARRANTS. If the funds raised under this chapter and sections 331.421, subsection 1, and 331.422, subsection 3, 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 37.6 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 331.421, subsection 1, and 331.422, subsection 3~~. The warrants shall be in denominations of one hundred, five hundred and one thousand dollars and shall draw interest at a rate not exceeding that permitted by chapter 74A. These warrants ~~shall~~ are not ~~be~~ a general obligation of any political subdivision which owns the hospital.

Sec. 3. Section 37.30, Code 1981 Supplement, is amended to read as follows:

37.30 REGISTRATION – CALL. All tax anticipatory warrants drawn under 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 and sections 331.421, subsection 1, and 331.422, subsection 3, is in the hands of the treasurer to retire any of the warrants together with accrued interest.

Sec. 4. Section 159.5, subsection 13, paragraph e, Code 1981 Supplement, is amended to read as follows:

e. Certify indemnity claims to the boards of supervisors to compensate the owners of condemned swine from funds provided under section 331.421, subsection ~~5~~ 6, following the general procedures for filing claims and paying indemnities as provided in chapter 165.

Sec. 5. Section 174.13, subsection 2, Code 1981, is amended by striking the subsection.

Sec. 6. Section 225.21, Code 1981, is amended to read as follows:

225.21 VOUCHERS. The person making claim to ~~such~~ compensation shall present to the court or judge an itemized sworn statement ~~thereof~~ of the claim, and when ~~such~~ the claim for compensation has been approved by the court or judge or clerk, ~~the same~~ it shall be filed in the office of the county auditor and shall be allowed by the board of supervisors and paid from the ~~state institution~~ county mental health and institutions fund.

Sec. 7. Section 306.23, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 98, section 1, is amended to read as follows:

306.23 NOTICE—PREFERENCE OF SALE. For the sale of unused right of way, except right of way under the jurisdiction of a county, notice of intention to sell the tract, parcel, or piece of land, or part thereof, must, not less than ten days prior to the sale, be sent by certified mail, by the agency in control of the land, to the last known address of the present owner of adjacent land from which the tract, parcel, piece of land, or part thereof, was originally bought or condemned for highway purposes, and if located in a city, to the mayor. The notice shall give an opportunity to the present owner of adjacent property to be heard and make offers for the tract, parcel, or piece of land to be sold, and if the offer is equal to or exceeds in amount any other offer received, it shall be given preference by the agency in control of the land. Neglect or failure for any reason, to comply with the ~~the~~ notice, shall in no way prevent the giving of a clear title to the purchaser of the tract, parcel, or piece of land. A county shall dispose of unused right of way in the manner specified under section ~~332.3, subsection 13~~ 331.361, subsections 2 and 3.

Sec. 8. Section 321.207, Code 1981 Supplement, is amended to read as follows:

321.207 RECORD FORWARDED. Every court having jurisdiction over offenses committed under this chapter, or any other law of this state or any city or county traffic ordinances, other than parking regulations, regulating the operation of motor vehicles on highways, shall forward to the department a record of the conviction of any person in the court for a violation of any ~~said~~ of the laws, and may recommend the suspension of the operator's or chauffeur's license of the person convicted, and the department shall consider and act upon the recommendation.

Sec. 9. Section 327H.20, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 116, section 2, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. With the department's approval, a city may appropriate money from its general fund to the railroad assistance fund. The department may agree to pay partial or total reimbursement to a city or county which appropriates money to the railroad assistance fund. Money appropriated to the railroad assistance fund from a city or county shall be used only as provided in section 327H.18 and within the city or county providing the money.

Sec. 10. Section 330.21, unnumbered paragraph 1, Code 1981 Supplement, is amended to read as follows:

The commission has all of the powers in relation to airports granted to cities and counties under ~~chapter 331 and the Constitution of the state of Iowa~~ state law, except powers to sell the airport. The commission shall annually certify the amount of tax within the limitations of ~~chapter 331~~ state law to be levied for airport purposes, and upon certification the governing body may include all or a portion of the amount in its budget.

Sec. 11. Section 345.1, subsections 1 and 9, Code 1981 Supplement, are amended to read as follows:

1. Except as otherwise provided by state law, the board of supervisors shall not expend over ten thousand dollars for the construction, reconstruction, remodeling, or relocation of a county building or facility, or the purchase of real property for county purposes until a majority of the qualified electors of the county voting on the proposition has approved the expenditure and any necessary tax levy for it at a general or special election. However, if bonds are to be issued to pay all or a part of the expenditure, and the county complies with part 3 or part 4 of division IV of chapter 331, this section is not applicable.

9. Notice of an election under this section shall be published as provided in section ~~331.306~~ 331.305 and shall state the whole question to be voted upon, including but not limited to the amount to be raised and the rate of tax to be levied.

Sec. 12. Chapter 347A, Code 1981, is amended by adding the following new section:

NEW SECTION. TAX FOR MAINTENANCE AND OPERATION. If in any year, after payment of the accruing interest on and principal due of revenue bonds issued under chapter 331, division IV, part 4, and payable from the revenues derived from the operation of the county hospital, there is a balance of such revenues insufficient to pay the expenses of operation and maintenance of the hospital, the board of hospital trustees shall certify that fact as soon as ascertained to the board of supervisors of the county, and the board of supervisors shall make the amount of the deficiency for paying the expenses of operation and maintenance of the hospital available from other county funds or shall levy a tax not to exceed one dollar and eight cents per thousand dollars of assessed value in any one year on all the taxable property in the county in an amount sufficient for that purpose. However, general county funds or the proceeds of taxes shall not be used or applied to the payment of the interest on or principal of revenue bonds issued under chapter 331, division IV, part 4, but general county funds or proceeds of taxes may only be used and applied to pay expenses of operation and maintenance of the hospital which cannot be paid from available revenue derived from its operation.

Sec. 13. Section 358B.13, Code 1981 Supplement, is amended to read as follows:

358B.13 MAINTENANCE EXPENSE ON PROPORTIONATE BASIS. The maintenance of a county library shall be on a proportionate population basis whereby each taxing unit shall bear its share in proportion to its population as compared to the whole population of the county library district. The board of library trustees shall on or before January 10 of each year make an estimate of the amount it deems necessary for the maintenance of the county library and shall transmit the estimate in dollars to the boards of supervisors and to the city councils within the district. The entire rural area of each county in the library district shall be considered as a separate taxing unit. Each city which is a part of the county library district shall be considered as a separate taxing unit. The board of supervisors of each county and the council of each city composing a county library district shall make the necessary levies for library maintenance purposes, but the county levy is subject to the levy limit in section 331.421, subsection 9.

Sec. 14. Section 384.12, subsection 15, Code 1981 Supplement, is amended to read as follows:

15. If a city has joined with the county to form an authority for a joint county-city building, as provided in section ~~346.26~~ 346.27, and has entered into a lease with the authority, a tax sufficient to pay the annual rent payable under the lease.

Sec. 15. Section 384.51, unnumbered paragraph 2, Code 1981, is amended to read as follows:

After adopting the resolution of necessity, the clerk shall certify to the county ~~auditor~~ treasurer of each county in which the city is located, a copy of the resolution of necessity, the plat and the schedule of assessments. In counties in which taxes are collected in two or more places, the resolution of necessity, the plat and the schedule of assessments shall be certified to the office of county ~~auditor~~ treasurer where the special assessments are collected. The county ~~auditor~~ treasurer shall preserve ~~such~~ the resolution, plat and schedule as a part of the records of ~~his or her~~ the office until the city certifies the final assessment schedule as provided in section 384.60 or certifies that the public improvement has been abandoned.

Sec. 16. Section 384.60, subsection 5 and unnumbered paragraph 2, Code 1981, are amended to read as follows:

5. Direct the clerk to certify the final schedule to the ~~auditor~~ treasurer of the county or counties in which the assessed property is located, and to publish notice ~~thereof~~ of the schedule 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~~ The 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 bear interest at the rate specified by the board, but not exceeding that permitted by chapter 74A, computed to the December 1 next following the due dates of the respective installments, and each installment will be delinquent on September 30 following its due date, and will draw additionally the same delinquent interest and the same penalties as ordinary taxes. ~~Such~~ The 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~~ treasurer shall place on the tax list the amounts to be assessed against each lot within the assessment district, as certified.

Sec. 17. Section 384.62, subsection 3, Code 1981, is amended to read as follows:

3. After the assessments for the public improvement have been levied and the special assessment schedule has been filed with the county ~~auditor~~ treasurer, the county ~~auditor~~ treasurer shall indicate on the tax rolls those assessments subject to deferment under this section.

Sec. 18. Section 384.63, Code 1981, is amended to read as follows:

384.63 INSUFFICIENCY—CERTIFICATION TO COUNTY ~~AUDITOR~~ TREASURER—DEFICIENCY ASSESSMENT. If the special assessment which may be levied against a lot is insufficient to pay its proportion of the cost of the improvement, or if no special assessment may be levied against a lot, the deficiency shall be paid from the city fund or funds designated by the council.

The council shall, by resolution, provide that the deficiencies for the lots specially benefited by a public improvement shall be certified to the county ~~auditor~~ treasurer, who shall record them in a separate book entitled "Special Assessment Deficiencies", and to the appropriate city official charged with the responsibility of issuing building permits, who shall notify the council when a private improvement is subsequently constructed on any lot subject to a deficiency. Certification to the county ~~auditor~~ treasurer shall include a legal description of each lot. The council shall establish by ordinance a period of amortization for a public improvement for which there are deficiencies, based upon the useful life of the public improvement, but not to exceed ten years. Deficiencies may be assessed only during the period of amortization, which shall also be certified to the county ~~auditor~~ treasurer and the city official charged with the responsibility of issuing building permits. Certification to the county ~~auditor~~ treasurer shall include a legal description of each lot. When a private improvement is constructed on a lot subject to a deficiency, during the period of amortization, the council shall, by resolution, assess a pro rata portion of the deficiency on that lot, in the same proportion to the total deficiency on that lot as the number of full calendar years remaining in the period of amortization is to the total number of years in the period of amortization, subject to the twenty-five percent limitation of section 384.62. A deficiency assessment becomes a lien on the property and is payable in the same manner, and subject to the same interest and penalties as the other special assessments. The council shall direct the clerk to certify a deficiency assessment to the county ~~auditor~~ treasurer, and to send a notice of the deficiency assessment by certified mail to each owner, as provided in section 384.60, subsection 5, ~~of this division,~~ but publication

of the notice is not required. An owner may appeal from the amount of the assessment within thirty days of the date notice is mailed. County officials shall collect a deficiency assessment, commencing in the year following the assessment, in the manner provided for the collection of other special assessments. Upon collection, the county ~~auditor~~ treasurer shall make the appropriate credit entries in the "Special Assessment Deficiencies" book, and shall credit the amounts collected as provided for other special assessments on the same public improvement, or to the city, to the extent that the deficiency has been previously paid from other city funds.

Sec. 19. Section 384.74, unnumbered paragraph 1, Code 1981, is amended to read as follows:

When, in making a special assessment, any property is assessed too little or too much, the assessment may be corrected and a reassessment and relevy made in conformity with the correction, and a tax collected in excess of the proper amount must be refunded to the person paying ~~the same~~ it. Corrected assessments are a lien on the lots the same as the original ~~assessment~~ assessments, must be certified by the clerk to the county ~~auditor~~ treasurer in the same manner, and must so far as practicable, be collected in the same installments, draw interest at the same rate, and be enforced in the same manner as the original assessment.

Sec. 20. Section 427B.1, Code 1981, is amended to read as follows:

427B.1 ACTUAL VALUE ADDED EXEMPTION FROM TAX—PUBLIC HEARING. A city council, ~~by ordinance,~~ or a county board of supervisors as authorized by section 427B.2, ~~by resolution,~~ may provide by ordinance for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to section 427A.1, subsection 1, paragraph "e". New construction means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the city council of the city or the board of supervisors of ~~a~~ the county upon the recommendation of the Iowa development commission. The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to section 427A.1, subsection 1, paragraph "e", unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

The ordinance ~~or resolution~~ may be enacted not less than thirty days after ~~holding~~ a public hearing is held in accordance with section 358A.6 in the case of a county, or section 362.3 in the case of a city. The ordinance ~~or resolution~~ shall designate the length of time the partial exemption shall be available and may provide for an exemption schedule in lieu of that provided in section 427B.3. However, an alternative exemption schedule adopted shall not provide for a larger tax exemption in a particular year than is provided for that year in the schedule contained in section 427B.3.

Sec. 21. Section 427B.2, subsection 1, Code 1981, is amended to read as follows:

1. The board of supervisors of a county which has appointed a county zoning commission and provided for county zoning under ~~the provisions of~~ chapter 358A may, ~~by resolution,~~ provide for a partial exemption from property taxation of the actual value added to industrial real estate as provided under section 427B.1.

Sec. 22. Section 427B.2, subsection 2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The board of supervisors of a county which has not appointed a zoning commission may~~, by resolution,~~ provide for a partial exemption from property taxation of the actual value added to industrial real estate as provided under section 427B.1 in the following areas:

Sec. 23. Section 427B.2, subsection 3, Code 1981, is amended to read as follows:

3. The board of supervisors of a county which has not appointed a zoning commission may~~, by resolution,~~ provide for a partial exemption from property taxation of the actual value added to industrial real estate as provided under section 427B.1 in an area where the partial exemption could not otherwise be granted under this chapter where the actual value added is to industrial real estate existing on July 1, 1979.

Sec. 24. Section 427B.4, unnumbered paragraph 2, Code 1981, is amended to read as follows:

A person may submit a proposal to the city council of the city or the board of supervisors of a county to receive prior approval for eligibility for a tax exemption on new construction. The city council~~, by ordinance,~~ or the board of supervisors, by ~~resolution~~ ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the city or county. The prior approval shall also be subject to the hearing requirements of section 427B.1. ~~Such prior~~ Prior approval ~~shall~~ does not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the city council or board of supervisors to approve or reject.

Sec. 25. Section 446.29, Code 1981, is amended to read as follows:

446.29 CERTIFICATE OF PURCHASE. The treasurer shall prepare, sign, and deliver to the purchaser of any real estate sold for the nonpayment of taxes a certificate of purchase, describing it as shown in the record of sales, giving the part of each tract or lot sold, the amount of each kind of tax, interest, and costs for each tract or lot as described in ~~such~~ the record, and that payment has been made ~~therefor~~. Not more than one ~~such~~ parcel or description shall be entered upon each certificate of purchase. ~~The treasurer shall receive one dollar for each certificate of purchase.~~

Sec. 26. Section 805.8, subsection 1, Code 1981, is amended to read as follows:

1. APPLICATION. Except as otherwise indicated, violations of sections of the Code specified in this section ~~shall be~~ are scheduled violations, and the scheduled fine for each of those violations ~~shall be~~ is as provided in this section, whether the violation is of state law or of county ~~resolution~~ or city ordinance.

Sec. 27. Section 805.9, subsection 6, Code 1981, is amended to read as follows:

6. The five dollars in costs imposed by this section ~~shall be~~ are the total costs collectible from any defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4. Fees shall not be imposed upon or collected from any defendant for the purposes specified in section ~~606.15~~ 331.705, subsection ~~9, 10 or 20~~ 1, paragraph i, j, or t.

Sec. 28. Section 805.11, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Upon the conviction of a defendant of a violation specified in section 805.8 or 805.10, fees shall not be imposed or collected for the purposes specified in section ~~606.15~~ 331.705, subsection ~~9, 10 or 20~~ 1, paragraph i, j, or t.

Sec. 29. Section 331.203, subsection 2, Code 1981 Supplement, is amended to read as follows:

2. If a majority of the votes cast on the proposition is in favor of the increase to five members, the board shall be increased to five members effective on the ~~second~~ first day in January which is not a Sunday or holiday following the next general election. The five-member board shall be elected according to the supervisor representation plan in effect in the county.

Sec. 30. Section 331.204, subsection 2, Code 1981 Supplement, is amended to read as follows:

2. If a majority of the votes cast on the proposition is in favor of the reduction to three members, the membership of the board shall remain at five until the ~~second~~ first day in January which is not a Sunday or holiday following the next general election, at which time the terms of the five members shall expire.

Sec. 31. Section 331.207, subsection 4, Code 1981 Supplement, is amended to read as follows:

4. If the plan adopted by a plurality of the ballots cast in the special election is not the supervisor representation plan currently in effect in the county, the terms of the county supervisors serving at the time of the special election shall continue until the ~~second~~ first day in January which is not a Sunday or holiday following the next general election, at which time the terms of the members shall expire and the terms of the members elected under the requirements of the new supervisor representation plan at the general election as specified in section 331.208, 331.209 or 331.210 shall commence.

Sec. 32. Section 331.213, subsection 1, Code 1981 Supplement, is amended to read as follows:

1. The board shall hold its first meeting of each year on the ~~second~~ first day in January which is not a Saturday, Sunday, or holiday and shall hold all subsequent meetings of the year as scheduled by the board. All meetings of the board shall be scheduled and conducted in compliance with chapter 28A.

Sec. 33. Section 331.303, subsection 5, Code 1981 Supplement, is amended to read as follows:

5. Proceed upon a petition to establish an official county fair and pay tax funds to it in accordance with section 174.10, subsection 2, and section ~~174.13~~ 331.422, subsection ~~2~~ 7.

Sec. 34. Section 331.322, subsection 5, Code 1981 Supplement, is amended to read as follows:

5. Furnish offices within the county for the sheriff, and at the county seat for the clerk, recorder, treasurer, auditor, county attorney, county surveyor or engineer, county assessor, and city assessor. If the office of public defender is established, the board shall furnish the public defender's office as provided in section 331.776. The board shall furnish the officers with fuel, lights and office supplies. However, the board is not required to furnish the county attorney or public defender with law books. The board shall not furnish an office also occupied by a practicing attorney to any officer other than the county attorney or public defender.

Sec. 35. Section 331.324, subsection 5, Code 1981 Supplement, is amended to read as follows:

5. If the liability of a ~~board~~ county officer or employee in the performance of official duties is not fully indemnified by insurance, the board shall pay a loss for which the officer or employee is found liable beyond the amount of insurance, and may compromise and settle any such claim.

Sec. 36. Section 331.383, Code 1981 Supplement, is amended to read as follows:

331.383 DUTIES AND POWERS RELATING TO ELECTIONS. The board shall ensure that the county commissioner of elections conducts primary, general, city, school and special

elections in accordance with applicable state law. The board shall canvass elections in accordance with sections 43.49 to 43.51, 43.60 to 43.62, 46.24, 50.13, 50.24 to 50.29, 50.44 to 50.47, 275.25, 277.20, 280A.39, 376.1, 376.7, and 376.9. The board shall prepare and deliver a list of persons nominated in accordance with section 43.55, provide for a recount in accordance with ~~sections 43.56 through 43.58~~ Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 34, section 34, provide for election precincts in accordance with sections 49.3, 49.4, 49.6 to 49.8 and 49.11, pay election costs as provided in section 47.3, participate in election contests as provided in sections 62.1 and 62.9, and perform other election duties required by state law. The board may authorize additional precinct election officials as provided in section 51.1, provide for the use of a voting machine or electronic voting system as provided in sections 52.2, 52.3, 52.8 and 52.34, and exercise other election powers as provided by state law.

Sec. 37. Section 331.421, subsection 1, Code 1981 Supplement, is amended to read as follows:

1. For bonds issued as a result of an election under chapter 37, not to exceed one dollar and ~~eighty~~ eight cents per thousand dollars.

Sec. 38. Section 331.421, subsection 2, Code 1981 Supplement, is amended to read as follows:

2. For the debt service fund established in section 331.428, an amount sufficient to retire outstanding debt as provided in section 76.2 subject to specific applicable levy limitations ~~in this part~~.

Sec. 39. Section 331.421, Code 1981 Supplement, is amended by adding the following new subsection after subsection 6 and renumbering the remaining subsections:

NEW SUBSECTION. A tax as provided in section 303B.9 for support of the regional library.

Sec. 40. Section 331.422, subsection 10, Code 1981 Supplement, is amended to read as follows:

10. For the veteran affairs fund, to be controlled jointly by the board and the county commission of veteran affairs as provided in chapter 250, for the benefit of, and to pay the funeral expenses of honorably discharged, indigent men and women of the United States in any war including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive, World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive, the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive, and the Vietnam Conflict at any time between August 5, 1964, and May 7, 1975, both dates inclusive, and their indigent ~~wives, widows~~ spouses, surviving spouses, and minor children having a legal residence in the county, not to exceed twenty-seven cents per thousand dollars.

Sec. 41. Section 331.422, subsection 23, Code 1981 Supplement, is amended to read as follows:

23. For additional ordinary county revenue in a county with a population of thirty-five thousand or more but not more than fifty-five thousand, and with a federal ordnance plant, not to exceed fifty-four cents per thousand dollars and subject to the approval of the state comptroller.

Sec. 42. Section 331.423, unnumbered paragraph 1, Code 1981 Supplement, is amended to read as follows:

A county may exceed a tax levy limit contained in section 331.421, subsection ~~13~~ 16, or section 331.422, subsections 23, ~~24,~~ or 25, if the proposition to authorize an enumerated levy limit rate to be exceeded has been submitted at a special levy election and received a majority of the votes cast on the proposition. A special levy election is subject to the following:

Sec. 43. Section 331.424, subsection 3, paragraphs l, m, and s, Code 1981 Supplement, are amended to read as follows:

l. For compensation and necessary travel expenses of the weed commissioner and deputies and for labor and equipment necessary for the performance of the weed commissioner's duties in lieu of payment from the weed eradication and equipment fund.

m. To the railroad assistance fund established under section 327H.18:

(1) With approval of the state department of transportation, an amount ~~not to exceed the amount of property taxes levied against railroad property within the county,~~ to be used for conservation, restoration, or improvement of railroad branch lines within the county and in accordance with chapter 327H. The county may receive reimbursement under section 327H.20.

(2) Subject to the limitation in ~~subparagraph (1)~~ chapter 327H, to provide financial assistance to railroads pursuant to an agreement with the state department of transportation, shippers, a railroad corporation, a city, or another county, the agreement to be administered by the state department of transportation, or to establish an escrow fund as collateral for a loan for railroad improvement, the loan proceeds to be credited to the railroad assistance fund.

s. To the domestic animal fund in accordance with section ~~352.6~~ 331.425, subsection 9.

Sec. 44. Section 331.441, subsection 2, paragraph b, subparagraph (3), Code 1981 Supplement, is amended by striking the subparagraph.

Sec. 45. Section 331.441, subsection 2, paragraph c, subparagraph (1), Code 1981 Supplement, is amended to read as follows:

(1) A memorial building or monument to commemorate the service rendered by soldiers, sailors, and marines of the United States, including the acquisition of ground and the purchase, erection, construction, reconstruction, and equipment of the building or monument, subject to the levy limit in section ~~331.422~~ 331.421, subsection ~~3~~ 1, and to be managed by a commission as provided in chapter 37. The election on the proposition to issue bonds for this purpose may be effected under sections 37.2 through 37.4 or section 331.442; after the election, the county shall take additional actions required to issue the bonds pursuant to this part.

Sec. 46. Section 331.441, subsection 2, paragraph c, Code 1981 Supplement, is amended by adding the following new subparagraph after subparagraph (2) and renumbering the remaining subparagraphs:

(3) The building and maintenance of a bridge over state boundary line streams, subject to the levy limit in section 331.422, subsection 14. The board shall submit a proposition under this subparagraph to an election upon receipt of a petition which is valid under section 331.306.

Sec. 47. Section 331.442, subsection 2, Code 1981 Supplement, is amended to read as follows:

2. Before the board may institute proceedings for the issuance of bonds for a general county purpose, it shall call a county special election to vote upon the question of issuing the bonds. At the election the proposition shall be submitted in the following form:

"Shall the county of ....., state
~~(insert the name of the county)~~
of Iowa, be authorized to ..... at a total
(state purpose of project)
cost not exceeding $ ..... and issue its general obligation bonds in an amount not exceeding ~~the amount of~~ $ .....for ~~the~~ that purpose ~~of~~ .....?"

Sec. 48. Section 331.447, subsection 1, paragraph b, Code 1981 Supplement, is amended to read as follows:

b. The amount estimated and certified to apply on principal and interest for any one year may only exceed the statutory rate of levy limit, if any, by the amount that the qualified electors of the county have approved at a special election, which may be held at the same time as the general election and may be included in the proposition authorizing the issuance of bonds, if an election on the proposition is necessary, or may be submitted as a separate proposition at the same election or at a different election. Notice of the election shall be given as specified in section 331.305. ~~The~~ If the proposition ~~submitted to the voters~~ includes issuing bonds and increasing the levy limit, it shall be in substantially the following form:

"Shall the county of ....., state of Iowa, be authorized to .....

(here state purpose of project)

at a total cost not exceeding $.....and issue its general obligation bonds in an amount not exceeding $..... for that purpose, and be authorized to levy annually a tax ~~exceeding (here set out the maximum rate limit)~~ but not exceeding ..... dollars and ..... cents per thousand dollars of the assessed value of the taxable property within the county to pay the principal of and interest on ~~bonded indebtedness of the county for the purpose of .....~~, ~~it being understood that the approval of this proposition does not limit the source of payment of the bonds and interest but only operates to restrict the amount of bonds which may be issued~~ the bonds?"

If the proposition includes only increasing the levy limit it shall be in substantially the following form:

"Shall the county of ....., state of Iowa, be authorized to levy annually a tax not exceeding ..... dollars and ..... cents per thousand dollars of the assessed value of the taxable property within the county to pay principal and interest on the bonded indebtedness of the county for the purpose of .....?"

Sec. 49. Section 331.461, unnumbered paragraph 1, Code 1981 Supplement, is amended to read as follows:

As used in this ~~section~~ part, unless the context otherwise requires:

Sec. 50. Section 331.463, subsection 3, Code 1981 Supplement, is amended to read as follows:

3. The board may contract to pay not to exceed ~~ninety~~ ninety-five percent of the engineer's estimated value of the acceptable work completed during the month to the contractor at the end of each month for work, material, or services. Payment may be made in warrants drawn on any fund from which payment for the work may be made. If such funds are depleted, anticipatory warrants may be issued bearing a rate of interest not exceeding that permitted by chapter 74A even if a collection of taxes or special assessments or income from the sale of bonds which have been authorized and are applicable to the public improvement takes place after the fiscal year in which the warrants are issued. If the board arranges for the private sale of anticipatory warrants, they may be sold and the proceeds used to pay the contractor. The warrants may also be used to pay other persons furnishing services constituting a part of the cost of the public improvement.

Sec. 51. Section 331.502, subsection 40, Code 1981 Supplement, is amended by striking the subsection.

Sec. 52. Section 331.502, subsection 45, Code 1981 Supplement, is amended to read as follows:

45. Pay claims for court-related fees claimed within five years as provided in section ~~606.18~~ 331.705, subsection 4.

Sec. 53. Section 331.507, subsection 2, paragraphs b and c, Code 1981 Supplement, are amended by striking the paragraphs.

Sec. 54. Section 331.552, Code 1981 Supplement, is amended by adding the following new subsection after subsection 24 and renumbering the remaining subsections:

NEW SUBSECTION. Collect a fee of three dollars for issuing a certificate for land sold for nonpayment of taxes or a certificate of redemption of land sold for taxes.

Sec. 55. Section 331.552, subsection 28, Code 1981 Supplement, is amended to read as follows:

28. Carry out duties relating to the collection of a tax for the maintenance of property received as a gift as provided in section ~~565.10~~ 331.421, subsection 14.

Sec. 56. Section 331.559, subsection 7, Code 1981 Supplement, is amended to read as follows:

7. Collect the costs assessed against a property owner for the destruction or eradication of weeds as provided in ~~sections 317.20 and~~ section 317.21.

Sec. 57. Section 331.602, subsection 34, Code 1981 Supplement, is amended to read as follows:

34. Carry out duties relating to the filing of ~~financial~~ financing statements or instruments as provided in sections 554.9401 through 554.9408.

Sec. 58. Section 331.702, subsection 58, Code 1981 Supplement, is amended by striking the subsection.

Sec. 59. Section 331.756, subsection 64, Code 1981 Supplement, is amended by striking the subsection.

Sec. 60. Section 331.905, subsection 2, Code 1981 Supplement, is amended to read as follows:

2. A member of the county compensation board selected to represent the general public pursuant to subsection 1, ~~paragraphs~~ paragraph "c", "d", ~~and~~ or "e", shall not be an employee or officer of the state government, or a political subdivision of the state, or related within the third degree of consanguinity to a state or local governmental employee or officer.

Sec. 61. Sections 164.23, 309.84, 330.16, and 444.13, Code 1981, are repealed.

Approved April 23, 1982

CHAPTER 1105

GUTHRIE COUNTY LEGALIZING ACT

H.F. 2154

AN ACT to legalize a conveyance of a parcel of abandoned road by the Guthrie county board of supervisors.

WHEREAS, on December 13, 1963 the Guthrie county board of supervisors abandoned a road; and

WHEREAS, on July 1, 1965 the state of Iowa issued a patent for part of the abandoned property to Michael S. Noland and Lucie Noland; and

WHEREAS, there is no record that a notice of the abandonment was published prior to the abandonment; and

WHEREAS, doubts have arisen as to the validity of the reversion to the state upon the abandonment and doubts may raise an issue concerning the merchantability of title of real estate patented on July 1, 1965 and the transactions should be legalized and the matter put to rest; NOW THEREFORE,

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

Section 1. That the proceedings of the board of supervisors of Guthrie county concerning the abandonment of the following described property and issuance of a patent by the state of Iowa are legalized and constitute a legal and binding abandonment and transfer of title of the following described property:

A parcel of land located in the northwest quarter of section 34, township 78 north, range 33, west of the 5th P.M., in Guthrie county, Iowa, lying on the northwesterly side of part of the following described centerline of primary road no. 90 as shown on official plans for project FA-145; the centerline, designated by stations points 100 feet apart, numbered consecutively from southwest to northeast, is described as following: beginning at sta. 26 + 10, a point on the western quarter corner of that section 34, thence north 1,494.1 feet, along the west line of that section 34 to sta. 41 + 04.1, thence northeasterly 1,798.0 feet along a 1,146.0 foot radius curve, concave southeasterly and tangent to the preceding course, to sta. 59 + 02.1. That parcel is described as all that part of that northwest quarter, except the west 60 feet thereof, that lies northwesterly of a line 60 feet radially distant northwesterly from and concentric with centerline and northeasterly of a radial line through sta. 48 + 20.

Approved April 30, 1982

CHAPTER 1106

TESTIMONY OF SPOUSE

H.F. 2365

AN ACT relating to the testimony of a husband or wife as a witness against the other.

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

Section 1. Section 622.7, Code 1981, is amended to read as follows:

622.7 HUSBAND OR WIFE AS WITNESS. Neither the husband nor wife shall in any case be a witness against the other regarding events and conversations occurring during their marriage, except:

1. In a criminal prosecution for a crime committed one against the other, or
2. In a civil action or proceeding one against the other, or
3. ~~In a civil action by one against a third party for alienating the affections of the other, or~~
4 3. In any civil action brought by a judgment creditor against either the husband or the wife, to set aside a conveyance of property from one to the other on the ground of want of consideration or fraud, and to subject the ~~same~~ property to the payment of ~~his~~ the judgment.

Approved April 30, 1982

CHAPTER 1107

REFUND OF MOBILE HOME PARK LICENSE FEE

H.F. 2454

AN ACT relating to the refund of fees when a mobile home park license is denied, revoked, or suspended.

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

Section 1. Section 135D.5, unnumbered paragraph 3, Code 1981, is amended to read as follows:

When the application is received by the state department of health, ~~it~~ the department shall promptly cause the mobile home park and appurtenances thereto to be inspected. When ~~such~~ the inspection and report has been made and the state department of health finds that all requirements of this chapter and ~~such~~ conditions of health and safety as the state department of health may require have been met by the applicant, the state department of health shall ~~forthwith~~ issue ~~such~~ the annual primary license in the name of the state. The department shall not refund the fee if the department denies the license pursuant to section 135D.8.

Sec. 2. Section 135D.17, Code 1981, is amended to read as follows:

135D.17 REVOCATION AND SUSPENSION OF LICENSE. ~~Any~~ A license granted ~~hereunder shall be~~ is subject to revocation or suspension by ~~a~~ the district court ~~of proper authority and jurisdiction~~, and the state department of health shall first serve or cause to be served a written notice specifying a way or ways in which ~~said~~ the licensee has failed to comply with the chapter, or any special rules ~~promulgated~~ adopted by the state department of health ~~pertaining thereto~~. ~~Said~~ The notice shall direct the licensee to remove or abate ~~such~~ the nuisance, or unsanitary or objectionable condition specified in ~~said~~ the notice within five days, or within ~~such~~ a reasonable period of time or extended period of time as may be reasonably allowed by the complaining officer. If the licensee fails to comply with the terms and conditions of ~~said~~ the notices, within the time specified ~~or such extended period or a period of time~~, the complaining officer may require the county attorney of the county in which ~~such~~ the violation occurred to start a civil action to remove or abate ~~such~~ the nuisance, or unsanitary, unhealthful, or objectionable condition ~~as~~ complained of, in the court of proper ~~authority and~~ jurisdiction ~~of the city or county~~ in the name of the state of Iowa, and if the licensee is found guilty a decision may be entered by the court to revoke or suspend ~~such~~ the license. The department shall not refund the fee pursuant to section 135D.5 if the license is revoked or suspended.

Approved April 30, 1982

CHAPTER 1108

POSTCONVICTION PROCEDURE COSTS

H.F. 2429

AN ACT relating to the use of chapter 663A of the Code by persons convicted of, or sentenced for, a public offense.

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

Section 1. Section 663A.5, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If an applicant confined in a state institution seeks relief under section 663A.2, subsection 6, and the court finds in favor of the applicant, or the postconviction proceedings fail and costs and expenses referred to in unnumbered paragraph 1 cannot be collected from the applicant, these costs and expenses initially shall be paid by the county in which the state institution is located. The facts of payment and the proceedings on which it is based, with a statement of the amount of costs and expenses incurred, with approval in writing by the presiding judge appended to the statement or endorsed on it, shall be certified by the clerk of the district court under seal to the state executive council. The executive council shall review the proceedings and authorize reimbursement for the costs and expenses or for that part which the executive council finds justified, and shall notify the state comptroller to draw a warrant to the county treasurer on the state general fund for the amount authorized.

Approved April 23, 1982

CHAPTER 1109

DUBUQUE COUNTY LEGALIZING ACT

H.F. 2427

AN ACT to legalize the action of the board of supervisors of Dubuque county reprecincting Cascade and Whitewater townships effective upon publication.

WHEREAS, the board of supervisors of Dubuque county on December 21, 1981, adopted a resolution combining Cascade and Whitewater townships into a single election precinct; and

WHEREAS, the board of supervisors of Dubuque county on February 1, 1982, adopted a resolution making Cascade and Whitewater townships separate election precincts; and

WHEREAS, section 49.8 prohibits a board of supervisors from changing precinct boundaries except in certain circumstances; and

WHEREAS, absent any action by the board of supervisors, section 49.4 provides that civil townships shall constitute election precincts; NOW THEREFORE,

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

Section 1. That the action of February 1, 1982, by the board of supervisors of Dubuque county making Cascade and Whitewater townships separate election precincts is legalized and confirmed and the townships shall constitute separate election precincts.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Mount Ayr Record-News, a newspaper published in Mount Ayr, Iowa, and in The Waterloo Courier, a newspaper published in Waterloo, Iowa.

Approved April 23, 1982

I hereby certify that the foregoing Act, House File 2427 was published in the Mt. Ayr Record-News, Mt. Ayr, Iowa on April 29, 1982 and in The Waterloo Courier, Waterloo, Iowa, on April 29, 1982.

Pursuant to the authority vested in the undersigned, Secretary of State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1981, there being no newspaper by the name of The Waterloo Courier, published in Waterloo, Iowa, I hereby designate the Waterloo Courier, published in Waterloo, Iowa to publish the foregoing Act, House File 2427.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1110

SECONDARY AND FARM-TO-MARKET HIGHWAYS

H.F. 2469

AN ACT relating to requirements of the state department of transportation and county officials with regard to secondary and farm-to-market highways.

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

Section 1. Section 309.42, Code 1981, is amended to read as follows:

309.42 ~~APPROVAL~~ REVIEW OF ROAD, BRIDGE OR CULVERT CONTRACTS. Contracts for road, bridge or culvert construction work which, according to the engineer's estimate, involve a cost of more than twenty thousand dollars in the aggregate shall be first ~~approved~~ reviewed by the department to assure compliance with this chapter before the ~~same shall be~~ contracts are effective ~~as a contract~~.

Sec. 2. Section 309.56, Code 1981, is amended to read as follows:

309.56 PROJECT PLANS. The plans for each project, on which contracts will be let pursuant to the provisions of sections 309.40~~,~~ and 309.42 ~~and 309.80~~ as soon as approved by the board of supervisors, shall be submitted to the department, and the board of supervisors may designate to the department which projects, in their estimation, should be first passed upon by ~~said~~ the department. The department shall pass on such reports and plans, and ~~in so doing,~~ shall take into consideration the thoroughness, feasibility, and practicability of ~~such~~ the plans.

Sec. 3. Section 309.68, Code 1981, is amended to read as follows:

309.68 INTERCOUNTY HIGHWAYS. Boards of supervisors of adjoining counties in this state shall~~,~~ ~~subject to the approval of the department~~:

1. Make proper connections between roads which cross county lines and which afford continuous lines of travel.

2. Adopt plans and specifications for road, bridge, and culvert construction, reconstruction, and repairs upon highways along and across county boundary lines, and make an equitable division between ~~said~~ counties of the cost and work attending the execution of ~~such~~ the plans and specifications.

3. Make joint agreements for the location, construction, and maintenance of roads under their jurisdiction wholly within one county to provide road access to lands in an adjoining county, when ~~such~~ the location provides the most economical and practical method of providing ~~such~~ road access. The expense of constructing and maintaining ~~such a~~ the road shall be equitably shared by the counties in ~~such~~ a proportion as the boards may determine.

Sec. 4. Section 309.69, Code 1981, is amended to read as follows:

309.69 ENFORCEMENT OF DUTY. ~~In case such boards fail to perform such duty, the department may, on its own motion, or in case said~~ If the boards are unable to agree and one of ~~said~~ the boards appeals to ~~said~~ the department, ~~said~~ the department shall notify the auditors of the interested counties that it will, on a day not less than ten days hence, at a named time and place within any of ~~said~~ the interested counties, hold a hearing to determine all matters relating to ~~such~~ any anticipated duty. At ~~said~~ the hearing the department shall fully investigate all questions pertaining to ~~said~~ the disputed matters, and shall, as soon as practicable, certify its decision to the different boards, which decision shall be final, and ~~said~~ the boards shall forthwith comply with ~~said~~ the order in the same manner as though ~~such~~ the work was located wholly within the county.

Sec. 5. Section 309.75, Code 1981, is amended to read as follows:

309.75 DEFINITIONS. ~~The term "culvert" shall include~~ "Culvert" includes any structure not classified as a bridge which provides an opening under any roadway, except that ~~such~~ this term ~~shall~~ does not include tile crossing the road, or intakes thereto, where ~~such~~ the tile are a part of a tile line or system designed to aid subsurface drainage.

~~The term "bridge" shall include~~ "Bridge" includes any structure including supports, erected over a depression or an obstruction, as water, a highway, or ~~railroad, and having~~ railway. A bridge has a track or passageway for carrying traffic or other moving loads and ~~having a length~~ has an opening measured along the center of the roadway of more than twenty feet ~~between the undercopings of abutments or extreme ends of openings for multiple boxes~~. The measurement shall be between the inside faces of abutments, the inside faces of the exterior walls of multiple box culverts, the spring lines of arches, and the horizontal measurement of circular or eliptical structures.

The length of a bridge ~~structure~~ is the overall ~~length measured along the line of survey stationing~~ measurement from back to back of backwalls and abutments~~, if present, or otherwise from end to end of the bridge floor, but in no case less than the total clear opening of the structure~~ measured along the center of the roadway.

Multiple pipes, where the distance between openings is less than half the smaller contiguous opening, may be included as a bridge, provided the pipes meet the other definitional requirements for bridges in this section.

Sec. 6. Section 310.9, Code 1981, is amended to read as follows:

310.9 PROJECTS ~~APPROVED~~ AUTHORIZED BY DEPARTMENT. Before ~~approving~~ authorizing for letting any farm-to-market road project, the department shall satisfy itself that the county engineer's office in that county is organized, equipped and financed to discharge satisfactorily the duties ~~herein~~ required in this chapter.

Sec. 7. Section 310.13, Code 1981, is amended to read as follows:

310.13 SURVEYS, PLANS AND ESTIMATES. ~~If the department approves a project submitted by the board of supervisors, the~~ The county engineer shall ~~proceed to~~ make or cause to be made, the surveys, plans and estimates for ~~said~~ any project, and submit ~~the same~~ them to the board of supervisors for approval and the department for ~~approval~~ authorization for letting. The construction work on ~~said~~ a project shall be done in accordance with ~~said approved~~ the plans, except insofar as ~~the same may be~~ they are modified to meet unforeseen or better understood conditions~~, and no such modification shall be deemed an invalidating matter~~.

Sec. 8. Section 310.14, Code 1981, is amended to read as follows:

310.14 BIDS—DEPARTMENT OR COUNTY SUPERVISORS. When the ~~approved~~ plans and specifications for any farm-to-market funded project are filed with and authorized for letting by the department, it shall, if the estimated cost exceeds one thousand dollars, proceed to advertise for bids and make ~~recommended~~ a recommendation to award ~~of~~ or reject a contract. ~~Said recommended~~ The recommendation to award ~~of~~ a contract shall be submitted to the board of supervisors of the county in which ~~said~~ the project is located for its ~~concurrence~~ approval and award of contract. Upon receiving the ~~concurrence~~ approval of the county board on ~~said~~ the recommended contract award, the department shall take final action ~~awarding said~~ to concur in the award of the contract. ~~Provided, that the said department shall determine and advise the county board as to any approved farm-to-market road project which is to be financed without the use of federal funds. On such~~ For a project without federal funds the above procedure may be reversed and the county board ~~shall~~ may be authorized to advertise for bids, and, subject to concurrence by the department, award a contract for the construction work.

Sec. 9. Section 310.19, Code 1981, is amended to read as follows:

310.19 SUPERVISION AND INSPECTION OF WORK. The county engineer is charged with the duty of supervision, inspection and direction of the work of construction of farm-to-market road projects under this chapter. In ~~such~~ this capacity, the county engineer ~~shall be under the supervision of the department~~ is responsible for the efficient, economical, and good-faith performance of the work.

Sec. 10. Section 310.22, Code 1981, is amended to read as follows:

310.22 RIGHT OF WAY—HOW ACQUIRED. Right of way for farm-to-market road projects under this chapter shall be acquired by the county in accordance with chapter 306 and chapter 316.

Sec. 11. Section 310.29, Code 1981, is amended to read as follows:

310.29 MAINTENANCE BY COUNTY. Any farm-to-market road constructed under ~~the provisions of~~ this chapter shall be maintained by the county ~~in a manner satisfactory to the federal authorities and to the department. Should~~ If any county ~~fail~~ fails to ~~so~~ satisfactorily maintain any ~~such~~ road that is part of the federal aid secondary system, the department shall give the board of supervisors notice of that fact. If within sixty days after receipt of ~~such~~ notice the ~~said~~ highway has not been placed in proper condition of maintenance the department ~~shall proceed immediately to have such highway placed in proper condition of maintenance and charge the cost thereof against said county's allotment of the farm-to-market road fund~~ may withhold authorization for letting of any project using farm-to-market funds until a proper condition of maintenance has been restored. ~~The amount so expended for maintenance work by the department shall be reimbursed to said county's allotment of the farm-to-market road fund, from said county's secondary road maintenance fund, before any more farm-to-market road projects in said county are approved by the department.~~

Sec. 12. Sections 309.70, 309.71, and 309.80, Code 1981, are repealed.

Approved April 30, 1982

CHAPTER 1111

FINES AND BAIL FORFEITURES

H.F. 2457

AN ACT relating to the disposition of fines and forfeited bail for violations of county ordinances.

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

Section 1. Section 321.236, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. May be charged and collected upon a simple notice of a fine not exceeding five dollars payable to the city clerk or clerk of the district court, if authorized by ordinance. No costs or other charges shall be assessed. ~~One hundred percent of all~~ All fines collected by a city pursuant to this paragraph shall be retained by the city and all fines collected by a county pursuant to this paragraph shall be retained by the county.

Sec. 2. Section 602.55, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 49, section 13, is amended to read as follows:

Each month each judicial magistrate and district associate judge shall file with the clerk of the district court of the proper county a sworn, itemized statement, of all cases disposed of and all funds received and disbursed per case, and at least monthly shall remit to the clerk all funds received. The clerk shall provide adequate clerical assistance to judicial magistrates and district associate judges to carry out this section. The clerk shall remit ninety percent of all fines and forfeited bail received from a magistrate or district associate judge to the city that was the plaintiff in any action, shall remit to the city ~~or county~~ ninety percent of all fines and forfeited bail received for improper use of handicapped parking spaces in violation of section 601E.6, subsection 2, when the violations occurred within the city ~~or the county when the violations occurred in the unincorporated area of the county~~, shall remit all fines and forfeited bail received from a magistrate or district associate judge for violation of a county ordinance except an ordinance relating to vehicle speed or weight restrictions, to the county treasurer of the county that was the plaintiff in any action for deposit in the general fund of the county, and shall provide that city or county with a statement showing the total number of ~~such~~ the cases, the total of all fines and forfeited bail collected and the total of all cases dismissed. However, if a county ordinance provides a penalty for a violation which is also penalized under state law, all fines and forfeited bail collected for the violation of that ordinance shall be deposited in the school fund. The clerk shall remit the remaining ten percent of city fines and forfeited bail to the county treasurer for deposit in the county general fund. The clerk shall remit to the treasurer of the county, for the benefit of the school fund, all other fines and forfeited bail received from a magistrate. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be remitted monthly by the clerk as follows:

Approved April 30, 1982

CHAPTER 1112

MUNICIPAL SEWAGE SLUDGE AS FERTILIZER

H.F. 2425

AN ACT relating to the use of municipal sewage sludge as fertilizer.

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

Section 1. Section 455B.78, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules that allow the use of wet or dry sludge from publicly-owned treatment works for land application. A sale of wet or dry sludge for the purpose of land application shall be accompanied by a written agreement signed by both parties which contains a general analysis of the contents of the sludge. The heavy metal content of the sludge shall not exceed that allowed by rules of the commission. An owner of a publicly-owned treatment works which sells wet or dry sludge is not subject to criminal liability for acts or omissions in connection with a sale, and is not subject to any action by the purchaser to recover damages for harm to person or property caused by sludge that is delivered pursuant to a sale unless it is a result of a violation of the written agreement or if the heavy metal content of the sludge exceeds that allowed by rules of the commission. Nothing in this section shall provide immunity to any person from action by the department pursuant to section 455B.82.

Sec. 2. The rules promulgated under section 1 of this Act shall be generally consistent with those rules of the department existing on January 1, 1982 regarding the land application of municipal sewage sludge except that they may provide for different methods of application for wet sludge and dry sludge.

Approved April 30, 1982

CHAPTER 1113

REORGANIZATION OF UNDER-GRADED SCHOOL DISTRICTS

H.F. 2420

AN ACT relating to the authority of the state board of public instruction over a school district not maintaining twelve grades.

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

Section 1. Section 275.1, unnumbered paragraph 1, Code 1981, is amended to read as follows:

It is declared to be the policy of the state to encourage economical and efficient school districts which will insure an equal educational opportunity to all children of the state. All areas of the state shall be in school districts maintaining twelve grades. If any school district ceases to maintain twelve grades except as otherwise provided in sections 280.15 and 257.28, it shall reorganize within six months or the state board shall attach the school district not maintaining twelve grades to ~~another district~~ one or more adjacent districts. 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 275.3.

Approved April 30, 1982

CHAPTER 1114

PROPERTY TAX FOR FIRE PROTECTION AND AMBULANCE SERVICE

S.F. 2238

AN ACT relating to the levy of a property tax for fire protection and ambulance service by a township having a common boundary with a city having a population of one hundred eighty thousand or more.

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

Section 1. Section 359.43, subsection 1, Code 1981, is amended to read as follows:

1. The township trustees may levy an annual tax not exceeding forty and one-half cents per thousand dollars of assessed value of the taxable property in the township, excluding any property within a benefited fire district or within the corporate limits of a city, for the purpose of exercising the powers granted in section 359.42. However, in any township having a fire protection service or ambulance service agreement or both service agreements with a special charter city having a paid fire department, the township trustees may levy an annual tax not exceeding fifty-four cents per thousand dollars of the assessed value of the taxable property for those purposes and in any township which has a common boundary with a city having a population of ~~two~~ one hundred eighty thousand or more, the township trustees may levy an annual tax not exceeding sixty-seven and one-half cents per thousand dollars of assessed value of taxable property for fire protection service or ambulance service purposes or for both purposes.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Ankeny Press-Citizen, a newspaper published in Ankeny, Iowa, and in the Urbandale News, a newspaper published in Urbandale, Iowa.

Approved April 22, 1982

I hereby certify that the foregoing Act, Senate File 2238 was published in the Ankeny Press Citizen, Ankeny, Iowa on April 29, 1982 and in the Urbandale News, Urbandale, Iowa, on May 6, 1982.

Pursuant to the authority vested in the undersigned, Secretary of State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1981, there being no newspaper by the name of the Ankeny Press-Citizen, published in Ankeny, Iowa, I hereby designate the Ankeny Press Citizen, published in Ankeny Iowa, to publish the foregoing Act, Senate File 2238.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1115

OBSCENITY OFFENSES

S.F. 2278

AN ACT relating to obscenity offenses and providing penalties.

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

Section 1. Section 728.4, Code 1981, 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 sadomasochistic 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~~ which material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be guilty of ~~a simple~~ an aggravated misdemeanor. Charges under this section may only be brought by a county attorney or by the attorney general.

Sec. 2. Chapter 728, Code 1981, is amended by adding the following new section:

NEW SECTION. FORFEITURE. Everything of value that is furnished or intended to be furnished in exchange for material in violation of sections 728.2 or 728.4, all proceeds traceable to such an exchange, and all property, moneys, negotiable instruments, and securities used or intended to be used to facilitate a violation of those sections, is subject to forfeiture. However, property shall not be forfeited under this paragraph, to the extent of the interest of an owner, if the owner did not have knowledge of or did not consent to the violation of the chapter. The burden of proof is upon claimants of the property to rebut this presumption.

Sec. 3. Section 809.1, subsection 4, Code 1981, is amended to read as follows:

4. Property subject to forfeiture except such property described in chapters 127 and 204 and except property subject to forfeiture pursuant to section 2 of this Act.

Sec. 4. Section 809.6, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If the seized property is of the type described in section 2 of this Act, and the court determines that it is forfeited as provided in section 2 of this Act, or a claimant's right to possession is not established under subsection 2 of section 809.5, the court shall order the property or the proceeds of its sale to be paid to the treasurer of state for deposit in the general fund. However, if the property is material which is in violation of chapter 728 or material which would be in violation of chapter 728 if sold to a minor, the materials shall be destroyed.

Approved April 23, 1982

CHAPTER 1116

IOWA COMMERCE COMMISSION CHARGES TO STATE OR AN AGENCY

S.F. 2220

AN ACT repealing a Code provision requiring the Iowa commerce commission to hold a special hearing to determine if charges payable by the state or an agency of the state for communications services are reasonable.

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

Section 1. Section 18.148, Code 1981, is amended by striking unnumbered paragraph 2.

Approved April 23, 1982

CHAPTER 1117

MENTAL HEALTH REORGANIZATION

S.F. 2274

AN ACT amending certain provisions of the 1981 mental health reorganization Act and related Code sections relating to the prospective repeal of the Act and the definition of mental health services.

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

Section 1. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, section 2, subsection 6, is amended to read as follows:

6. "Comprehensive services" means the mental health services ~~mandated by the Community Mental Health Centers Amendments of 1975, 42 U.S.C. sec. 2689 (1976, Supp. II, 1978, and Supp. III, 1979)~~ delineated in the annual state mental health plan, and the mental retardation services delineated in the annual state mental retardation plan.

Sec. 2. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, section 20, is amended to read as follows:

SEC. 20. NEW SECTION. FUTURE STATUS OF DIVISION. The provisions of this Act are repealed effective July 1, 1986. The First Session of the Seventy-first General Assembly meeting in the year 1985 shall review the activities and performance of the division and shall not later than July 1, 1985 make a determination concerning the status and duties of the division.

The program evaluation division of the legislative fiscal bureau shall conduct a program

evaluation of the performance of the division and the efficacy of this Act, and provide recommendations and make a final report to the general assembly by ~~January~~ September 1, ~~1985~~ 1984.

An interim committee consisting of members of the senate and house of representatives shall be established to study and evaluate the performance of the division, the efficacy of this Act, and the recommendations of the final report of the program evaluation division of the legislative fiscal bureau during the ~~1985~~ 1984 legislative interim following the receipt of the final report from the legislative fiscal bureau. The committee shall evaluate the division's contributions to the development of uniform and accessible comprehensive services, the division's success in achieving the objectives established in the state mental health and mental retardation plans, the effectiveness of the funding mechanisms established by this Act, the division's contribution to the development of community services and to deinstitutionalization of inappropriately institutionalized persons, the division's activity in coordinating the provision of mental health and mental retardation services with other state and local agencies providing or funding services to mentally ill or mentally retarded persons, and other criteria deemed important by the interim committee.

Sec. 3. Section 230A.2, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

230A.2 SERVICES OFFERED. A community mental health center established or operating as authorized by section 230A.1 may offer to residents of the county or counties it serves any or all of the mental health services defined by the mental health and mental retardation commission in the state mental health plan.

Sec. 4. Section 230A.15, Code 1981, is amended to read as follows:

230A.15 COMPREHENSIVE COMMUNITY MENTAL HEALTH PROGRAM. A community mental health center established or operating as authorized by section 230A.1, or which a county or group of counties has agreed to establish or support pursuant to that section, may with approval of the board or boards of supervisors of the county or counties supporting or establishing the center, undertake to provide a comprehensive community mental health program for the county or counties. A center providing a comprehensive community mental health program shall, at a minimum, make available to residents of the county or counties it serves all of the comprehensive mental health services described in ~~section 230A.2, subsection 1, including paragraphs "a," "b" and "e," and subsections 3, 5 and 6~~ the state mental health plan.

Approved April 23, 1982

CHAPTER 1118

CERTIFICATES OF TITLE TO REAL ESTATE

S.F. 2156

AN ACT relating to the issuance of certificates of title by the clerk of the district court.

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

Section 1. Section 633.480, Code 1981, is amended to read as follows:

633.480 CERTIFICATE TO COUNTY AUDITOR FOR TAX PURPOSES WITH ADMINISTRATION. After ~~the entry of the order approving the final report~~ discharge as provided in section 633.479, the clerk shall issue a certificate under the provisions of chapter 558 relative to each parcel of real estate described in the final report of the personal representative which has not been sold by the personal representative, and deliver such certificate to the county auditor of the county in which ~~such~~ the real estate is situated.

Approved April 22, 1982

CHAPTER 1119

ENFORCEMENT OF COAL MINING LAW

S.F. 2260

AN ACT relating to coal mining.

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

Section 1. Section 83.14, subsection 2, unnumbered paragraph 2, Code 1981, is amended to read as follows:

If upon expiration of the time as fixed the director finds in writing that the violation has not been abated, the director, notwithstanding section 17A.18, shall immediately order a cessation of coal mining and reclamation operations relating to the violation until the order is modified, vacated, or terminated by the director pursuant to procedures outlined in this section. In the order of cessation issued by the director under this subsection, the director shall include the steps necessary to abate the violation in the most expeditious manner possible.

Sec. 2. Section 83.14, subsection 7, paragraph a, Code 1981, is amended to read as follows:

a. A hearing has been held in the locality of the permit area ~~on the request for temporary relief~~ in which all parties were given an opportunity to be heard. The hearing need not be held as a contested case under chapter 17A.

Approved April 23, 1982

CHAPTER 1120

CRIMINAL HISTORY DATA DISSEMINATION

S.F. 2268

AN ACT authorizing the department of public safety to disseminate criminal history data to the department of social services for the purposes of licensing and hiring of personnel for child foster care facilities and child care centers, and providing penalties.

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

Section 1. Section 692.2, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

692.2 DISSEMINATION OF CRIMINAL HISTORY DATA.

1. The department and bureau may provide copies or communicate information from criminal history data only to the following:

a. Criminal justice agencies.

b. Other public agencies as authorized by the confidential records council.

c. The department of social services for the purposes of section 237.8, subsection 2 and section 237A.5.

2. The bureau shall maintain a list showing the individual or agency to whom the data is disseminated and the date of dissemination.

3. Persons authorized to receive information under subsection 1 shall request and may receive criminal history data only when both of the following apply:

a. The data is for official purposes in connection with prescribed duties or required pursuant to section 237.8, subsection 2 or section 237A.5.

b. The request for data is based upon name, fingerprints, or other individual identifying characteristics.

4. The provisions of this section and section 692.3 which relate to the requiring of an individually identified request prior to the dissemination or redissemination of criminal history data do not apply to the furnishing of criminal history data to the federal bureau of investigation or to the dissemination or redissemination of information that an arrest warrant has been or will be issued, and other relevant information including but not limited to, the offense and the date and place of alleged commission, individually identifying characteristics of the person to be arrested, and the court or jurisdiction issuing the warrant.

Sec. 2. Section 692.3, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 38, section 4, is amended to read as follows:

692.3 REDISSEMINATION.

1. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate criminal history data outside the agency, received from the department or bureau, unless all of the following apply:

~~1.~~ a. The data is for official purposes in connection with prescribed duties of a criminal justice agency.

~~2.~~ b. The agency maintains a list of the persons receiving the data and the date and purpose of the dissemination.

~~3.~~ c. The request for data is based upon name, fingerprints, or other individual identification characteristics.

2. Notwithstanding subsection 1, paragraph a, the department of social services may redisseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph c, in section 1 of this Act to persons licensed under chapters 237 and 237A for the purposes of section 237.8, subsection 2 and section 237A.5. Licensees under either chapter 237 or chapter 237A who receive information pursuant to this subsection shall not use the information other than for purposes of section 237.8, subsection 2 or section 237A.5. A licensee who uses the information for other purposes or who communicates the information to another except for the purposes of section 237.8, subsection 2 or section 237A.5 is guilty of an aggravated misdemeanor.

3. A peace officer, criminal justice agency, or state or federal regulatory agency shall not redisseminate intelligence data outside the agency, received from the department or bureau or from any other source, except as provided in ~~subsections~~ subsection 1 ~~and~~ 2.

Approved April 23, 1982

CHAPTER 1121

NONPROFIT FOUNDATIONS FOR AREA SCHOOLS

S.F. 2247

AN ACT to authorize the establishment of nonprofit foundations by the boards of area schools.

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

Section 1. Chapter 280A, Code 1981, is amended by adding the following new section:

NEW SECTION. TRUSTS. The board of a merged area may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the area school to accept and administer trusts deemed by the board to be beneficial to the operation of the area school. Notwithstanding section 633.63, the board and the nonprofit foundations may act as trustees in these instances. The board shall require that moneys belonging to a nonprofit foundation are audited annually.

Approved April 23, 1982

CHAPTER 1122

EMERGENCY VOLUNTEERS NOT CHAUFFEURS

S.F. 2264

AN ACT to provide that certain volunteer firefighters and operators of ambulances and rescue vehicles shall not be classified as chauffeurs when operating fire apparatus, ambulances, or rescue vehicles.

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

Section 1. Section 321.1, subsection 43, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 101, section 1, is amended to read as follows:

"Chauffeur" means any person who operates a motor vehicle, including a school bus, in the transportation of persons for wages, compensation or hire, or any person who operates a truck tractor, road tractor or any motor truck which is required to be registered at a gross weight classification exceeding five tons, or any such motor vehicle exempt from registration which would be within the gross weight classification if not so exempt except when the operation by the owner or operator is occasional and merely incidental to the owner or operator's principal business, ~~or~~ is by a volunteer firefighter operating fire apparatus, or is by a volunteer ambulance or rescue squad attendant operating ambulance or rescue squad apparatus. If a volunteer firefighter or ambulance or rescue squad operator receives nominal compensation not based upon the value of the services performed, the firefighter or operator shall be considered to be receiving no compensation and classified as a volunteer.

Approved April 23, 1982

CHAPTER 1123

LEE COUNTY LEGALIZING ACT

S.F. 2294

AN ACT to legalize the proceedings of the board of supervisors of Lee county relating to the purchase of property at a scavenger tax sale and subsequent conveyance of the property.

WHEREAS, on February 3, 1958, Lee County, pursuant to chapters 446, 447 and 448; Code 1954, purchased property located in the City of Keokuk, Lee County, Iowa at a scavenger tax sale, the property being legally described as:

——The Rear Forty (40) feet of Lots Five (5) and Six (6) and the Southwest Forty (40) feet of Lot Four (4), all in Block Sixteen (16), of the Original City of Keokuk, Lee County, Iowa——

and

WHEREAS, Lee County subsequently conveyed the property to the city of Keokuk by a quit claim deed dated February 25, 1965; and

WHEREAS, the city of Keokuk now desires to convey the property for the express purpose of erecting forty-six units of low-income housing; and

WHEREAS, it cannot be determined by reference to the county records whether section 446.9 regarding notice of sale, section 446.18 regarding notice of scavenger tax sale, section 447.9 regarding notice of expiration of right of redemption, section 448.1 regarding execution of tax deed, and section 448.15 regarding affidavit by tax title holder, Code 1954, were complied with in conjunction with the purchase of the property by Lee County, and whether section 332.3, subsection 13, Code 1962, requiring a resolution of the board of supervisors and publication of notice of public hearing, was complied with in conjunction with the conveyance of the property by quit claim deed to the city of Keokuk; and

WHEREAS, some doubt has arisen as to the validity of the proceedings purchasing the property at scavenger tax sale and subsequently conveying the property to the city of Keokuk, and this doubt may raise an issue concerning merchantability of the title to the property and it is deemed advisable and necessary to put these doubts and all others which might arise concerning the same to rest; NOW THEREFORE,

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

Section 1. All the proceedings taken by Lee County pertaining to the purchase and subsequent transfer to the city of Keokuk of the following described real estate:

— —The Rear Forty (40) feet of Lots Five (5) and Six (6) and the Southwest Forty (40) feet of Lot Four (4), all in Block Sixteen (16), of the Original City of Keokuk, Lee County, Iowa— —

wherein Lee county may have failed to conform to sections 446.9 involving notice of sale, 446.18 involving notice of scavenger tax sale, 447.9 involving notice of expiration of right of redemption, 448.1 involving execution of tax deed, 448.15 involving an affidavit by the tax title holder, Code 1954, and section 332.3, subsection 13, Code 1962 involving a resolution of the board of supervisors and publication of notice of public hearing, are validated, legalized, and confirmed and constitute a valid, legal, and binding purchase of the property at the scavenger tax sale and a valid, legal, and binding transfer of the interest of Lee County in said property to the city of Keokuk, Lee County, Iowa.

Approved April 23, 1982

CHAPTER 1124

ANAEROBIC LAGOONS

S.F. 2243

AN ACT to provide minimum separation distances between new anaerobic lagoons for industrial wastewater treatment and existing residences and providing for rules regarding sulfate content in anaerobic lagoons.

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

Section 1. Section 455B.12, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. a. Commission rules establishing maximum permissible sulfate content shall not apply to an expansion of an industrial anaerobic lagoon facility which was constructed prior to February 22, 1979.

Sec. 2. Section 455B.13, subsection 3, paragraph e, subparagraph (1), Code 1981, is amended to read as follows:

(1) Notwithstanding any other provision of division II of this chapter, the following siting requirements shall apply to anaerobic lagoons~~,~~:

PARAGRAPH DIVIDED. Anaerobic lagoons which are used in connection with animal feeding operations containing less than six hundred twenty-five thousand pounds ~~or less~~ live animal weight capacity of animal species other than beef cattle or containing less than one million six hundred thousand pounds ~~or less~~ live animal weight capacity of beef cattle, shall be located at least one thousand two hundred fifty feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. Anaerobic lagoons, which are used in connection with animal feeding operations containing six hundred twenty-five thousand pounds or more live animal weight capacity of animal species other than beef cattle or containing one million six hundred thousand pounds or more live animal weight capacity of beef cattle, shall be located at least one thousand eight hundred seventy-five feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. For the purpose of this paragraph the determination of live animal weight capacity shall be based on the average animal weight capacity during a production cycle and the maximum animal capacity of the animal feeding operation. These separation distances ~~shall~~ apply to the construction of new facilities and the expansion of existing facilities.

Anaerobic lagoons which are used in connection with industrial treatment of wastewater where the average wastewater discharge flow is one hundred thousand gallons per day or less shall be located at least one thousand two hundred fifty feet from a residence not owned by the owner of the lagoon or from a public use area other than a public road. Anaerobic lagoons which are used in connection with industrial treatment of wastewater where the average wastewater discharge flow is greater than one hundred thousand gallons per day shall be located at least one thousand eight hundred seventy-five feet from a residence not owned by the owner of the lagoon or from a public use area other than a public road. These separation distances apply to the construction of new facilities and the expansion of existing facilities.

Sec. 3. Section 455B.13, subsection 3, paragraph e, subparagraph (2), Code 1981, is amended to read as follows:

(2) A person may build or expand an anaerobic lagoon closer to a residence not owned by the owner of the ~~feeding~~ ~~operation~~ anaerobic lagoon or to a public use area than is otherwise permitted by subparagraph (1) of this paragraph, if the affected landowners enter into a written agreement with the anaerobic lagoon owner to waive the separation distances under such terms ~~as~~ the parties ~~may~~ negotiate. The written agreement ~~shall become~~ becomes effective only upon recording in the office of the recorder of deeds of the county in which the residence is located.

Approved April 16, 1982

CHAPTER 1125

CONTRACT FOR STORAGE IN THE SAYLORVILLE RESERVOIR

S.F. 2235

AN ACT to authorize the Iowa natural resources council to enter into a contract on behalf of the state with the federal government for storage in the saylorville reservoir, effective upon publication.

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

Section 1. Notwithstanding section 455A.17, the Iowa natural resources council may enter into a binding contract on behalf of this state with the federal government for the acquisition of storage in Saylorville reservoir for municipal and industrial water supply if the council also enters into binding contracts on behalf of this state with the local water users who will benefit from the storage so that all costs incurred by this state in its contract with the federal government are borne by those local water users.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Chariton Leader, a newspaper published in Chariton, Iowa, and in The Sun-Hawkeye-Record-Herald, a newspaper published in Mount Vernon, Iowa.

Approved April 21, 1982

I hereby certify that the foregoing Act, Senate File 2235 was published in The Chariton Leader, Chariton, Iowa on April 27, 1982 and in The Sun, Mount Vernon, Iowa on April 29, 1982.

Pursuant to the authority vested in the undersigned, Secretary of State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1979, there being no newspaper by the name of The Sun-Hawkeye-Record-Herald, published in Mount Vernon, Iowa, I hereby designate The Sun, published in Mount Vernon, Iowa to publish the foregoing Act, Senate File 2235.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1126

UNEMPLOYMENT COMPENSATION TEMPORARY TAX

S.F. 2273

AN ACT relating to balancing the unemployment compensation trust fund and repaying any loans made by the federal government to Iowa for the payment of unemployment compensation benefits.

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

Section 1. Section 96.7, subsections 15 and 16, Code 1981, are amended by striking the subsections and inserting in lieu thereof the following:

15. TEMPORARY EMERGENCY TAX. If on the first day of the third month in any calendar quarter in 1983, the department has an outstanding balance of interest accrued on advance moneys received from the federal government for the payment of unemployment compensation benefits, or is projected to have an outstanding balance of accruing federal interest for that calendar quarter, the director shall collect a temporary emergency tax for that calendar quarter in 1983, retroactive to the beginning of that calendar quarter. The tax shall be set at the rate necessary to pay the interest accrued on the moneys advanced to the department by the federal government, and to pay any additional federal interest which will accrue for the remainder of that calendar quarter. However, the tax shall not be greater than one-tenth of one percent of taxable wages for that calendar quarter. The tax shall apply to all employers except government entities, nonprofit organizations, and employers assigned a zero contribution rate for calendar year 1983. The director shall prescribe the manner in which the tax will be collected. Interest shall accrue on all unpaid tax under this subsection at the same rate as on regular contributions and shall be collectible in the same manner. The tax shall not affect the computation of regular contributions under this chapter.

A special fund to be known as the temporary emergency tax fund is created in the state treasury. The special fund is separate and distinct from the unemployment compensation trust fund. All contributions collected from the temporary emergency tax shall be deposited in the special fund. The special fund shall be used only to pay interest accruing on advance moneys received from the federal government for the payment of unemployment compensation benefits.

16. If on March 1, 1983, the total unemployment compensation trust funds available for the payment of benefits are less than ten times the average total weekly benefits paid during four consecutive weeks of January and February, 1983, the department may require an advance payment of all or a portion of the actual or projected employer contributions due for the calendar quarter ending March 31, 1983, payable on March 31, 1983.

Sec. 2. Section 96.13, subsection 3, unnumbered paragraph 3, Code 1981, is amended to read as follows:

Balances to the credit of the special employment security contingency fund shall not lapse at any time but shall continuously be available to the department for expenditures consistent ~~herewith~~ with this subsection. ~~However, if on July 1 of any year the balance in the special employment security contingency fund exceeds fifty thousand dollars by ten thousand dollars or more, the treasurer of state shall promptly transfer the entire amount over fifty thousand~~

~~dollars to the unemployment compensation fund established in section 96.9 unless the department determines that such transfer should not be made because of immediate obligations to be met from the fund.~~

Sec. 3. Section 96.19, subsection 21, Code 1981, is amended to read as follows:

21. "COMPUTATION DATE". The computation date for contribution rates shall be July 1 of that calendar year preceding the calendar year with respect to which such rates are to be effective. ~~If the total trust funds available for payment of unemployment compensation benefits through April 1, 1978, is projected to fall below twenty million dollars, the director of the Iowa department of job service shall prepare and adopt such procedures for advance payment of a portion of the employer's unemployment contributions projected due for the first quarter of the calendar year beginning January 1, 1978.~~

Approved April 22, 1982

CHAPTER 1127

MERGED AREA XIII LEGALIZING ACT

S.F. 2267

AN ACT to legalize and validate the proceedings of the board of directors of the Iowa western community college (merged area XIII) in the counties of Adair, Adams, Audubon, Cass, Crawford, Fremont, Harrison, Mills, Monona, Montgomery, Page, Pottawattamie and Shelby in connection with certain contracts to construct and to lease facilities with purchase option effective upon publication.

WHEREAS, the board of directors of the Iowa western community college (merged area XIII) advertised for and received bids for the construction and lease with purchase option of a project designated as the continuing education lecture center and Kanesville center addition to its campus; and

WHEREAS, it appears from the records of the Iowa western community college that the most favorable bid by Knudson, Inc. was accepted by the board of directors under which the contractor was obligated to execute a contract to construct and a lease agreement with purchase option pursuant to section 280A.38 setting forth the terms of the lease of the project to the college; and

WHEREAS, the Iowa western community college and the contractor have by change order amended a term of the lease agreement with purchase option with respect to the dates on which the college may exercise its right to purchase and corrected errors in the lease and established the terms of the lease at fifteen years; and

WHEREAS, doubts have arisen concerning the validity and legal sufficiency of that action and it is deemed advisable to put such doubts and all others that might arise concerning the proceedings forever at 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 directors of the Iowa western com-

munity college (merged area XIII), in connection with the award of contract to Knudson, Inc., the execution of the contract to construct, and the execution and amendment of the lease agreement with purchase option are legalized and confirmed and the contract to construct and lease and the lease agreement with purchase option as amended and modified constitute binding obligations of the merged area district enforceable in accordance with their terms by the contractor or an approved assignee of the contractor.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Council Bluffs Nonpareil, a newspaper published in Council Bluffs, Iowa, and in The Red Oak Express, a newspaper published in Red Oak, Iowa.

Approved April 22, 1982

I hereby certify that the foregoing Act, Senate File 2267 was published in The Council Bluffs Nonpareil, Council Bluffs, Iowa on May 8, 1982 and in The Red Oak Express, Red Oak, Iowa on April 28, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1128

SCHOOL DISTRICT PROPERTY TAX LEVY FOR CASH RESERVE

S.F. 2088

AN ACT to authorize a property tax levy by school districts for a cash reserve.

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

Section 1. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 94, section 1, is amended by striking the section and inserting in lieu thereof the following:

SECTION 1. Chapter 298, Code 1981, is amended by adding the following new section:

NEW SECTION. LEVY FOR CASH RESERVE. The board of directors of a school district may certify for levy by March 15 of a school year, a tax on all taxable property in the school district in order to raise an amount for a necessary cash reserve for a school district's general fund. The amount raised for a necessary cash reserve does not increase a school district's authorized expenditures as defined in section 442.5, subsection 2.

Sec. 2. Section 442.13, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Annually the school budget review committee shall review the amount of property tax levied by each school district for a cash reserve authorized in section 1 of this Act. If in the committee's judgment, the amount of a district's cash reserve levy is unreasonably high, the committee shall instruct the state comptroller to reduce that district's tax levy computed under section 442.9 for the following budget year by the amount the cash reserve levy is deemed excessive. A reduction in a district's property tax levy for a budget year under this subsection does not affect the district's authorized budget.

Sec. 3. Section 442.13, subsection 2, Code 1981, is amended to read as follows:

2. The committee shall report to each session of the general assembly, which report shall include any recommended changes in laws relating to school districts, and shall specify the number of hearings held annually, the reasons for the committee's recommendations, information about the amounts of property tax levied by school districts for a cash reserve, and other information ~~as~~ the committee deems advisable.

Sec. 4. Chapter 442, Code 1981, is amended by adding the following new section:

NEW SECTION. If a school district receives less state school foundation aid under section 442.26 than is due under that section, for a base year and the school district uses funds from its cash reserve during the base year to make up for the amount of state aid not paid, the board of directors of the school district shall include in its general fund budget document information about the amount of the cash reserve used to replace state school foundation aid not paid.

Sec. 5. Notwithstanding sections 24.3 through 24.17, for the school year beginning July 1, 1982, the board may approve the levy of the property tax authorized in section 1 of this Act and certify a budget to the county auditor not later than twenty days after the effective date of this Act or not later than May 1, 1982, whichever is earlier. Time limitations on procedures necessary for budget certification are adjusted according to the budget certification deadline established in this section.

Sec. 6. This Act, being deemed of immediate importance, takes effect from and after its publication in the South Hardin Signal-Review, a newspaper published in Hubbard, Iowa, and in the Charles City Press, a newspaper published in Charles City, Iowa.

Approved April 16, 1982

I hereby certify that the foregoing Act, Senate File 2088 was published in the South Hardin Signal-Review, Hubbard, Iowa on April 22, 1982 and in the Charles City Press, Charles City, Iowa on April 23, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1129

HISTORICAL SOCIETY USE OF COUNTY FUNDS

S.F. 460

AN ACT relating to the purposes for which funds from a tax levied by a county can be used by a nonprofit historical society.

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

Section 1. Section 331.422, subsection 18, Code 1981 Supplement, is amended to read as follows:

18. For a local, nonprofit historical society organized under chapter 504 or 504A, not to exceed three cents per thousand dollars to be used ~~for~~ to preserve and disseminate a knowledge of the history of the area to the general public, including but not limited to collecting and

preserving historical materials, artifacts, places, and structures of the area, including repairing and maintaining buildings; maintaining a historical library and collections, including the construction, repair and maintenance of facilities necessary for exhibits and displays; conducting historical studies and researches~~,~~; issuing publications~~,~~; and providing public lectures of historical interest~~, and otherwise disseminating a knowledge of the history of the area to the general public~~. The tax collected under this subsection shall not exceed five thousand dollars in a county with a population of less than thirty-five thousand, fifteen thousand dollars in a county with a population of thirty-five thousand or more but less than one hundred thousand, or twenty-five thousand dollars in a county with a population of one hundred thousand or more. If there are two or more nonprofit historical societies in the county, the board shall apportion the funds available under this subsection as it determines. The board shall require the historical society to submit to it a proposed budget including the amount of available funds and estimated expenditures, as a prerequisite to receiving funds under this subsection. A local historical society receiving funds under this subsection shall present to the board an annual report describing in detail its use of the funds received.

Approved April 22, 1982

CHAPTER 1130

RULES OF CIVIL PROCEDURE CHANGES

S.F. 2270

AN ACT relating to changes in the rules of civil procedure proposed by the supreme court.

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

Section 1. The proposed changes to the rules of civil procedure filed by the supreme court with the Iowa general assembly January 27, 1982, are amended by striking from pages four and five the provision which would create a rule of civil procedure 371.*

Approved April 23, 1982

* See Ch. 1268 herein.

CHAPTER 1131

MOTOR FUEL TESTS

H.F. 2059

AN ACT relating to motor fuel tests.

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

Section 1. Section 214A.2, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

214A.2 TEST AND STANDARDS.

1. The secretary is authorized, after public hearing following due notice, to make appropriate rules for carrying out the provisions of this chapter. In the interest of uniformity, the secretary shall adopt by reference or otherwise specifications relating to tests and standards for motor fuel established by the American society for testing and materials (A.S.T.M.), unless the secretary determines those specifications are inconsistent with this chapter or are not appropriate to the conditions which exist in this state.

2. Octane number shall conform to the average of values obtained from the A.S.T.M. D-2699 research method and the A.S.T.M. D-2700 motor method.

Octane number for regular grade gasoline shall follow the latest specifications of A.S.T.M. and shall not be less than eighty-eight.

Octane number for premium grade leaded gasoline shall follow the latest specifications of A.S.T.M. and shall not be less than ninety-three.

Octane number for unleaded grade gasoline shall follow the latest specifications of A.S.T.M. and shall not be less than eighty-seven.

Octane number for premium grade unleaded gasoline shall follow the latest specifications of A.S.T.M. and shall not be less than ninety.

Octane number for ten percent ethanol-blended leaded fuel shall follow the latest specifications of A.S.T.M. and shall not be less than ninety.

Octane number for ten percent ethanol-blended unleaded fuel shall follow the latest specifications of A.S.T.M. and shall not be less than eighty-nine.

"A.S.T.M." means the A.S.T.M. standards in effect on July 1, 1981.

Approved April 19, 1982

CHAPTER 1132

INDUSTRIAL REVENUE BONDS FOR HOUSING FOR ELDERLY OR HANDICAPPED

H.F. 2173

AN ACT relating to the projects for which industrial revenue bonds may be issued under chapter 419 by including land, buildings, or improvements for the use of any housing unit or complex for the elderly or handicapped.

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

Section 1. Section 419.1, subsection 2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 130, section 1, is amended to read as follows:

2. "Project" means all or any part of, or any interest in, (a) any land, buildings or improvements, whether or not in existence at the time of issuance of the bonds issued under authority of this chapter, which ~~shall be~~ are suitable for the use of any voluntary nonprofit hospital, clinic or health care facility as defined in section 135C.1, subsection 4, or of one or more physicians for an office building to be used exclusively by professional health care providers, including appropriate ancillary facilities, or of any private college or university, or any state institution governed under chapter 262 whether for the establishment or maintenance of such college or university, or of any industry or industries for the manufacturing, processing or assembling of any agricultural or manufactured products, even though such processed products may require further treatment before delivery to the ultimate consumer, or of any commercial enterprise engaged in storing, warehousing or distributing products of agriculture, mining or industry including but not limited to barge facilities and river-front improvements useful and convenient for the handling and storage of goods and products, or of a national, regional or divisional headquarters facility of a company that does multistate business, or of a telephone company, or of a beginning businessperson for any purpose, or of any commercial amusement or theme park, or of any housing unit or complex for the elderly or handicapped, or (b) pollution control facilities which shall be suitable for use by any industry, commercial enterprise or utility. "Pollution control facilities" means any land, buildings, structures, equipment, pipes, pumps, dams, reservoirs, improvements, or other facilities useful for the purpose of reducing, preventing, or eliminating pollution of the water or air by reason of the operations of any industry, commercial enterprise or utility or for the disposal, including without limitation recycling, of solid waste. "Improve", "improving" and "improvements" ~~shall embrace~~ include any real property, personal property or mixed property of any and every kind that can be used or that will be useful in connection with a project, including, without limiting the generality of the foregoing, rights of way, roads, streets, sidings, trackage, foundations, tanks, structures, pipes, pipelines, reservoirs, utilities, materials, equipment, fixtures, machinery, furniture, furnishings, improvements, instrumentalities and other real, personal or mixed property of every kind, whether above or below ground level.

Approved April 19, 1982

CHAPTER 1133

REMEDY FOR VIOLATION OF JAIL MINIMUM STANDARDS

H.F. 2337

AN ACT relating to the remedy for violation of a rule providing a minimum standard for the regulation of jails and alternative jails.

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

Section 1. Section 356.36, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The sole remedy for violation of a rule adopted pursuant to this section is by a proceeding for compliance initiated by request to the department of social services. A violation of a rule does not permit any civil action to recover damages against the state of Iowa, its departments, agents, or employees or any county, its agents or employees.

Approved April 19, 1982

CHAPTER 1134

SUPPORT PAYMENT RECORDS

H.F. 2359

AN ACT making records of court ordered support payments public records.

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

Section 1. Section 598.22, unnumbered paragraph 3, Code 1981, is amended to read as follows:

An order or judgment entered by the court for temporary or permanent support or for an assignment shall be filed with the court clerk. ~~Such~~ The orders shall have the same force and effect as judgments when entered in the judgment docket and lien index and shall be a record open to the public. The clerk shall disburse the payments received pursuant to ~~such~~ the orders or judgments. All moneys received or disbursed under this section shall be entered in a record book kept by the clerk, which shall be open to ~~inspection by the parties to the action and their attorneys~~ the public.

Approved April 19, 1982

CHAPTER 1135

ACCESS TO MENTAL HEALTH RECORDS

H.F. 2361

AN ACT relating to the access of a spouse to the medical records of a mental health patient.

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

Section 1. Section 229.25, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When the chief medical officer deems it to be in the best interest of the patient and the spouse to do so, the chief medical officer may release appropriate information during a consultation which the hospital or facility shall arrange with the spouse of a voluntary or involuntary patient, if requested by a spouse.

Approved April 19, 1982

CHAPTER 1136

MERGED AREAS AND AREA EDUCATION AGENCY BOUNDARY LINES

H.F. 2376

AN ACT relating to the boundary lines of merged areas and area education agencies and providing that the Act takes effect upon its publication.

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

Section 1. Section 273.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

There ~~is~~ are established ~~in each of the several merged areas of~~ throughout the state ~~an area education agency,~~ fifteen area education agencies, each of which is governed by an area education agency board of directors. ~~The area education agency shall have boundaries which are conterminous with the boundaries of the merged areas as provided in chapter 280A.~~ The boundaries of an area education agency shall not divide a school district. The state board of public instruction shall change boundaries of area education agencies to take into account mergers of local school districts and changes in boundaries of local school districts, when necessary to maintain the policy of this chapter that a local school district shall not be a part of more than one area education agency.

Sec. 2. Section 273.3, subsection 13, Code 1981, is amended to read as follows:

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 within the limits of funds provided under section 281.9 and chapter 442. 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 territory of the ~~merged~~ area education agency. The notice shall specify the date which shall be not later than November 10 of each year, time, and location of the public hearing. The proposed budget as approved by the board shall then be submitted to the state board of public instruction, on forms provided by the department, no later than December 1 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall prior to January 1 either grant approval or return the budget without approval with comments of the state board included. Any unapproved budget shall be resubmitted to the state board for final approval.

Sec. 3. Section 273.3, subsection 17, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 87, section 1, is amended to read as follows:

17. Meet at least annually with the members of the ~~board~~ boards of directors of the merged ~~area~~ areas in which the area education agency is located to discuss co-ordination of programs and services and other matters of mutual interest to the ~~two~~ boards.

Sec. 4. Section 273.8, subsection 1, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

1. BOARD OF DIRECTORS. The board of directors of an area education agency shall consist of not less than five nor more than nine members, each a resident of and elected in the manner provided in this section from a director district that is approximately equal in population to the other director districts in the area education agency. Each director shall serve a three-year term which expires on the first Monday in October.

Sec. 5. Section 273.8, subsection 2, unnumbered paragraph 1, Code 1981, is amended by striking the unnumbered paragraph.

Sec. 6. Section 273.8, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. CHANGE IN DIRECTORS. The board of an area education agency may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be completed not later than July 1 of a fiscal year for the director district conventions to be held the following September.

NEW SUBSECTION. BOUNDARY LINE CHANGES. To the extent possible the board shall provide that changes in the boundary lines of director districts of area education agencies shall not lengthen or diminish the term of office of a director of an area education agency board. Initial terms of office shall be set by the board so that as nearly as possible the terms of one-third of the members expire annually.

NEW SUBSECTION. CENSUS CHANGES. The board of the area education agency shall redraw boundary lines of director districts in the area education agency after each census to compensate for changes in population if changes in population have taken place.

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 49.3 through 49.6.

Sec. 7. Section 280A.12, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Director districts shall be of approximately equal population within each merged area.

Sec. 8. Section 280A.16, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The boundary lines of a merged area may divide a school district.

Sec. 9. Chapter 280A, Code 1981, is amended by adding the following new section after section 280A.13:

NEW SECTION. DIRECTOR DISTRICTS.

1. The board of a merged area may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be completed not later than July 1 of a fiscal year for the regular school election to be held the next following September.

2. The board of the merged area shall redraw boundary lines of director districts in the merged area after each census to compensate for changes in population if changes in population have taken place.

3. 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 49.3 through 49.6.

4. To the extent possible the board shall provide that changes in the boundary lines of director districts of merged areas do not lengthen or diminish the term of office of a director of the board. Initial terms of office shall be set by the board so that as nearly as possible the terms of one-third of the members expire annually.

Sec. 10. Section 280A.22, Code 1981, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. If the boundary lines of a merged area are changed, the levy of the annual tax provided in this section sufficient to pay the amount due for a loan agreement and the interest on the loan agreement to maturity shall continue in any territory severed from the merged area until the loan with interest on the loan has been paid in full.

Sec. 11. Section 280A.25, subsections 2 and 3, Code 1981, are amended to read as follows:

2. Change boundaries of director districts in any merged area when the ~~commission~~ board fails to change boundaries as required by law.

3. ~~Change boundaries of merged areas to take into account mergers of local school districts and changes in boundaries of local school districts, when necessary to maintain the policy of this chapter that no local school district shall be a part of more than one merged area.~~ The state board may ~~also~~ make ~~other~~ changes in boundaries of merged areas with the approval of the board of directors of each merged area affected by the change. ~~At any time when~~ When the boundaries of a merged area are ~~so~~ changed, the state board may authorize the board of directors of the merged area to levy additional taxes upon the property within the merged area, or any part ~~thereof~~ of the merged area, and distribute the ~~same~~ taxes so that all parts of the merged area are paying their share toward the support of the school or college.

Sec. 12. Sections 280A.4, 280A.28 and 280A.29, Code 1981, are repealed.

Sec. 13. This Act, being deemed of immediate importance, takes effect from and after its publication in the Estherville Daily News, a newspaper published in Estherville, Iowa, and in the Storm Lake Register, a newspaper published in Storm Lake, Iowa.

Approved April 19, 1982

I hereby certify that the foregoing Act, House File 2376 was published in the Estherville Daily News, Estherville, Iowa on May 4, 1982 and in the Storm Lake Register, Storm Lake, Iowa on April 24, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1137

INSOLVENT INSURERS

H.F. 2380

AN ACT relating to insolvent insurers.

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

Section 1. Chapter 515B, Code 1981, is amended by adding the following new section:

NEW SECTION. EARLY ACCESS TO ASSETS.

1. Within one hundred twenty days of the issuance of a final order of liquidation with a finding of insolvency of a company by a court of competent jurisdiction of this state, the receiver shall make application to the court for approval of a proposal to disburse assets out of such company's marshaled assets from time to time as such assets become available to the Iowa insurance guaranty association and to any entity or person performing a similar function in another state. The Iowa insurance guaranty association and any entity or person performing a similar function in other states shall hereinafter be referred to collectively as the associations.

2. Such proposal shall at least include provisions for:

a. Reserving amounts for the payment of expenses of administration and claims falling within priorities higher than that of the associations.

b. Disbursement of the assets marshaled to date and subsequent disbursements of assets as they become available.

c. Equitable allocation of disbursements to each of the associations entitled thereto for the purpose of paying covered claims and claim handling expense.

d. The securing by the receiver from each of the associations entitled to disbursements of an agreement to return to the receiver such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within priorities higher than that of the associations in accordance with such priorities. No bond shall be required of any such association.

3. The receiver's proposal shall provide for disbursements to the association in amounts estimated to be at least equal to the covered claim payments and claim handling expense made or to be made thereby for which such associations could assert a claim against the receiver, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such claim payments and claim handling expense made or to be made by the association then disbursements shall be in the amount of available assets.

4. Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mail, first class postage prepaid, at least thirty days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given, and provided further that the receiver's proposal complies with paragraphs a and d of subsection 2 of this section.

Sec. 2. Section 515B.2, subsection 5, Code 1981, is amended to read as follows:

5. "Insolvent insurer" means an insurer against which ~~an~~ a final order of liquidation with a finding of insolvency has been entered on or after July 1, 1980, by a court of competent

jurisdiction of this state or of the state of the insurer's domicile~~, and the order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order~~.

Approved April 19, 1882

CHAPTER 1138

CONFIDENTIALITY OF NONTESTIMONIAL IDENTIFICATION

H.F. 2385

AN ACT relating to the confidentiality of the application, affidavits and order for a nontestimonial identification.

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

Section 1. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 206, section 6, is amended to read as follows:

SEC. 6. Chapter 810, Code 1981, is amended by adding the following new section:

NEW SECTION. ISSUANCE OF ORDER. Upon a showing that the required grounds exist, the court shall issue an order directing the person named or described in the application to appear at a designated time and place for nontestimonial identification procedures. The order shall be maintained by the clerk of the district court along with the application and the affidavits in support of the application in a confidential file until a charge is filed, at which time the order, application, and affidavits in support of the application shall become public records unless the court upon an in camera hearing orders that they be kept confidential.

Approved April 19, 1982

CHAPTER 1139

NOTARY PUBLIC

H.F. 2397

AN ACT relating to the time of expiration of the commission of a notary public and to the notice required to be given by the secretary of state and allowing the secretary of state to appoint as a notary public a resident of a border state working in Iowa.

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

Section 1. Section 77.2, Code 1981, is amended to read as follows:

77.2 TERMS—EXPIRATION DATE. ~~All terms shall be for a period of~~ The term of a notary who is an Iowa resident is three years ~~and shall expire on the thirtieth day of September~~. The term of a notary who is a resident of a state bordering Iowa and whose place of work or business is in Iowa, is one year.

Sec. 2. Section 77.3, Code 1981, is amended to read as follows:

77.3 NOTICE OF EXPIRATION OF TERM. The secretary of state shall, ~~on or before August 1~~ two months preceding the expiration of ~~each~~ a commission, notify ~~each~~ the notary public of ~~such~~ the expiration and furnish ~~him with~~ a blank application for reappointment and a blank bond.

Sec. 3. Section 77.4, subsection 2, Code 1981, is amended to read as follows:

2. Execute a bond to the state of Iowa in the sum of five hundred dollars conditioned for the true and faithful execution of the duties of ~~his~~ the office, which bond, when secured by personal surety, shall be approved by the clerk of the district court of the county of ~~his~~ the person's residence or in the case of a resident of a state bordering Iowa, of the county of the person's place of work or business within the state of Iowa; all other bonds shall be approved by the secretary of state.

Sec. 4. Section 77.4, subsection 5, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 21, section 2, is amended to read as follows:

5. Remit the sum of fifteen dollars ~~for the three-year period provided by law~~ to the secretary of state.

Sec. 5. Section 77.17, Code 1981, is amended to read as follows:

77.17 CHANGE OF RESIDENCE. If a ~~notary remove his~~ notary's residence is moved from the state of Iowa, ~~such removal shall be~~ the move is taken as a resignation. However, this does not apply to a person appointed as a notary public who is a resident of a state bordering Iowa and whose place of work or business is in Iowa. If a notary who is a resident of a state bordering Iowa ceases to work or maintain a place of business in Iowa, the notary's commission expires.

Sec. 6. Chapter 77, Code 1981, is amended by adding the following new section:

NEW SECTION. APPOINTMENT OF BORDER STATE RESIDENTS AS NOTARY. The secretary of state may appoint as a notary public a resident of a state bordering Iowa if that person's place of work or business is within the state of Iowa.

Approved April 19, 1982

CHAPTER 1140

COMMERCIAL MOTOR VEHICLE DEFINITION

H.F. 2410

AN ACT to exclude from the definition of a commercial motor vehicle a motor truck with a combined gross weight of less than twenty-six thousand pounds which is part of an identifiable one-way motor vehicle fleet leased for a period of less than thirty days for moving property owned by a lessee.

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

Section 1. Section 324.57, subsection 7, Code 1981, is amended to read as follows:

7. "Commercial motor vehicle" means a passenger vehicle that has seats for more than nine passengers in addition to the driver, any road tractor, any truck tractor, or any truck having two or more axles which passenger vehicle, road tractor, truck tractor, or truck is propelled on the public highways by either motor fuel or special fuel. "Commercial motor vehicle" does not include a motor truck with a combined gross weight of less than twenty-six thousand pounds, operated as a part of an identifiable one-way fleet and which is leased for less than thirty days to a lessee for the purpose of moving property which is not owned by the lessor.

Approved April 19, 1982

CHAPTER 1141

TRAFFIC VIOLATION PROCEEDINGS CONDUCTED BY REGENTS

H.F. 2418

AN ACT to provide that traffic violation proceedings by the state board of regents or its institutions are not contested cases under the Iowa administrative procedure Act.

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

Section 1. Section 262.69, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of chapter 17A, a proceeding conducted by the state board of regents or an institution governed by the state board of regents to determine the validity of an assessment of a violation of traffic control and parking rules is not a contested case as defined in section 17A.2, subsection 2.

Approved April 19, 1982

CHAPTER 1142

PENSION BENEFITS OF SPOUSE OF FIRE FIGHTER OR PEACE OFFICER

H.F. 84

AN ACT relating to pensions under firemen's and policemen's pension funds.

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

Section 1. Section 410.10, subsection 1, Code 1981, is amended to read as follows:

1. To the surviving spouse, so long as said spouse remains unmarried ~~and of good moral character~~, a sum equal to one-half of the deceased member's total adjusted pension as provided for in section 410.6, but in no event less than seventy-five dollars per month.

Sec. 2. Section 410.10, unnumbered paragraph 2, Code 1981, is amended to read as follows:

~~Provided, however, that~~ However, the benefits provided by this section ~~shall be~~ are subject to the following definitions: The term "spouse" ~~shall mean~~ means ~~only such~~ a surviving spouse of a marriage contracted prior to retirement of a deceased member from active service, or of a marriage of a retired member contracted prior to March 2, 1934. Surviving spouse includes a former spouse only if the division of assets in the dissolution of marriage decree pursuant to section 598.17 grants the former spouse rights of a spouse under this chapter. If there is no surviving spouse of a marriage contracted prior to retirement of a deceased member, or of a marriage of a retired member contracted prior to March 2, 1934, surviving spouse includes a surviving spouse of a marriage of two years or more duration contracted subsequent to retirement of the member. The terms "child" and "children" ~~shall~~ mean only the surviving issue of a deceased active or retired member, or the child or children legally adopted by a deceased member prior to ~~his~~ the member's retirement from active service~~, or by a member now retired prior to March 2, 1934~~.

Sec. 3. Pensions payable under chapter 410 because of section 2 of this Act are not retroactive and shall commence July 1, 1982.

Approved April 19, 1982

CHAPTER 1143

MOTOR VEHICLE REGISTRATION FOR COMBINED GROSS WEIGHT

H.F. 2416

AN ACT to allow building movers other than movers of mobile homes and factory-built structures to register for combined gross weight on a single-trip basis.

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

Section 1. Section 321E.12, Code 1981, is amended to read as follows:

321E.12 REGISTRATION MUST BE CONSISTENT. Any vehicle traveling under permit shall be properly registered for the gross weight of the vehicle and load. Any person owning special mobile equipment registered and in compliance with section 321.21, may use a transport vehicle registered for the gross weight of the transport without a load. Vehicles, while being used for the transportation of buildings, except mobile homes and factory-built structures, may be registered for the combined gross weight of the vehicle and load on a single-trip basis. The fee is five cents per ton exceeding the weight registered under section 321.122 per mile of travel. Fees shall not be prorated for fractions of miles. This provision does not exempt these vehicles from any other provision of this chapter.

Approved April 19, 1982

CHAPTER 1144

IDENTIFICATION OF DRIVERS OF MOTOR VEHICLES

S.F. 26

AN ACT requiring owners of motor vehicles to identify the drivers of the vehicles to peace officers, and providing a penalty.

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

Section 1. Section 321.484, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a peace officer as defined in section 801.4 has reasonable cause to believe the driver of a motor vehicle has violated sections 321.261, 321.262, 321.264, or 321.372, the officer may request any owner of the motor vehicle to supply information identifying the driver. When requested, the owner of the vehicle shall identify the driver

to the best of his or her ability. However, the owner of the vehicle is not required to supply identification information to the officer if the owner believes the information is self-incriminating.

Approved April 23, 1982

CHAPTER 1145

PROFITING FROM INMATES

S.F. 2232

AN ACT relating to profiting from inmates held in custody and providing a penalty.

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

Section 1. Chapter 721, Code 1981, is amended by adding the following new section:

NEW SECTION. PROFITING FROM INMATES—PENALTY. A peace officer as defined by section 801.4, subsection 7, a jailer, or an employee of a penal or correctional facility shall not be the purchaser, directly or indirectly, of property being sold by a prisoner who is in the person's custody. However, a peace officer, jailer, or employee of a penal or correctional facility may purchase inmate made items at an art or craft sale or show, but only when the items are offered for sale to the public and the price paid for the item is the same price offered to any other prospective purchaser. A sale made in violation of this section is void. A peace officer, jailer, or employee of a penal or correctional facility who violates this section, commits a simple misdemeanor.

Approved April 30, 1982

CHAPTER 1146

BAILIFFS' SALARIES AND EXPENSES

S.F. 2193

AN ACT authorizing the payment of the salaries and expenses of bailiffs from the court expense fund.

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

Section 1. Section 331.904, subsection 6, Code 1981 Supplement, is amended to read as follows:

6. The salaries and expenses of the deputy officers, assistants, clerks, and other employees of the county shall be paid from the general fund of the county unless otherwise provided by law. The deputy clerks of the district court ~~and~~, other employees of the clerk's office, and the bailiffs may be paid from the court expense fund.

Approved May 6, 1982

CHAPTER 1147

CONTROLLED SUBSTANCES, SIMULATED CONTROLLED SUBSTANCES, AND IMITATION CONTROLLED SUBSTANCES

S.F. 2202

AN ACT relating to simulated controlled substances and imitation controlled substances, and to the forfeiture to the state of all things of value given or intended to be given in exchange for a controlled substance in violation of the controlled substances Act, and providing penalties.

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

Section 1. Section 204.101, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Simulated controlled substance" means a substance which is not a controlled substance but which is expressly represented to be a controlled substance, or a substance which is not a controlled substance but which is impliedly represented to be a controlled substance and which because of its nature, packaging, or appearance would lead a reasonable person to believe it to be a controlled substance.

Sec. 2. Section 204.401, subsection 2, Code 1981, is amended to read as follows:

2. Except as authorized by this chapter, it is unlawful for ~~any~~ a person to create, deliver, or possess with intent to deliver, a counterfeit substance or a simulated controlled substance, or

to act with, enter into a common scheme or design with, or conspire with one or more other persons to create, deliver, or possess with intent to deliver, a counterfeit substance or a simulated controlled substance.

~~Any~~ A person who violates this subsection with respect to:

a. A counterfeit substance classified in schedule I or II which is a narcotic drug, or a simulated controlled substance represented to be a narcotic drug classified in schedule I or II, is guilty of a class "C" felony.

b. Any other counterfeit substance classified in ~~schedules~~ schedule I, II, or III, or any simulated controlled substance represented to be any other substance classified in schedule I, II, or III, is guilty of a class "D" felony.

c. A counterfeit substance classified in schedule IV, or a simulated controlled substance represented to be a substance classified in schedule IV, is guilty of a serious misdemeanor.

d. A counterfeit substance classified in schedule V, or a simulated controlled substance represented to be a substance classified in schedule V, is guilty of a simple misdemeanor.

Sec. 3. Section 204.406, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

204.406 DISTRIBUTION TO PERSON UNDER AGE EIGHTEEN.

1. A person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing a substance listed in schedule I or II, which is a narcotic drug, to a person under eighteen years of age, is guilty of a class "B" felony; however the minimum time to be served before parole may be granted is five years. A person who is eighteen years of age or over who violates section 204.401, subsection 1, by distributing any other controlled substance listed in schedule I, II, or III to a person under eighteen years of age who is at least three years younger than the violator is guilty of a class "C" felony. A person who is eighteen years of age or over who violates section 204.401, subsection 1 by distributing a controlled substance listed in schedule IV or V to a person under eighteen years of age who is at least three years younger than the violator is guilty of an aggravated misdemeanor.

2. A person who is eighteen years of age or over who violates section 204.401, subsection 2 by distributing a counterfeit substance listed in schedule I or II which is a narcotic drug, or a simulated controlled substance represented to be a narcotic drug classified in schedule I or II, to a person under eighteen years of age is guilty of a class "B" felony. A person who is eighteen years of age or over who violates section 204.401, subsection 2, by distributing any other counterfeit substance listed in schedule I, II, or III or a simulated controlled substance represented to be any substance listed in schedule I, II, or III, to a person under eighteen years of age who is at least three years younger than the violator is guilty of a class "C" felony. A person who is eighteen years of age or over who violates section 204.401, subsection 2, by distributing a counterfeit substance listed in schedule IV or V or a simulated controlled substance represented to be a substance listed in schedule IV or V to a person under eighteen years of age who is at least three years younger than the violator is guilty of an aggravated misdemeanor.

Sec. 4. NEW SECTION. TITLE. Sections 4 through 9 of this Act may be cited as the "Iowa Imitation Controlled Substances Act".

Sec. 5. NEW SECTION. DEFINITIONS. As used in sections 4 through 9 of this Act, unless the context otherwise requires:

1. "Controlled substance" means a controlled substance as defined in section 204.101, subsection 6.

2. "Deliver" or "delivery" means the actual, constructive, or attempted transfer, distribution, or dispensing to another of an imitation controlled substance.

3. "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging, or labeling of an imitation controlled substance.

4. "Imitation controlled substance" means a substance which is not a controlled substance but which by color, shape, size, markings, and other aspects of dosage unit appearance, and packaging or other factors, appears to be or resembles a controlled substance.

The state board of pharmacy examiners may designate a substance as an imitation controlled substance pursuant to the board's rule-making authority and in accordance with chapter 17A.

Sec. 6. NEW SECTION. FACTORS INDICATING AN IMITATION CONTROLLED SUBSTANCE. When a substance has not been designated as an imitation controlled substance by the state board of pharmacy examiners and when dosage unit appearance alone does not establish that a substance is an imitation controlled substance the following factors may be considered in determining whether the substance is an imitation controlled substance:

1. The person in control of the substance expressly or impliedly represents that the substance has the effect of a controlled substance.

2. The person in control of the substance expressly or impliedly represents that the substance because of its nature or appearance can be sold or delivered as a controlled substance or as a substitute for a controlled substance.

3. The person in control of the substance either demands or receives money or other property having a value substantially greater than the actual value of the substance as consideration for delivery of the substance.

Sec. 7. NEW SECTION. OFFENSES AND PENALTIES.

1. It is unlawful for a person to manufacture, deliver, or possess with intent to deliver, an imitation controlled substance. Except as provided in subsection 3, a person who violates this subsection is guilty of an aggravated misdemeanor.

2. It is unlawful for a person to publish or to post or distribute in a public place, an advertisement or solicitation, if the person knows or reasonably should know the advertisement or solicitation is to promote the distribution of imitation controlled substances. A person who violates this subsection is guilty of a serious misdemeanor.

3. A person who is eighteen years of age or older who violates this section by delivering an imitation controlled substance to a person under eighteen years of age who is at least three years younger than the violator is guilty of a class "D" felony.

Sec. 8. NEW SECTION. IMMUNITY. It is not unlawful for a person registered under section 204.302, to manufacture, deliver, or possess an imitation controlled substance for use as a placebo by a registered practitioner in the course of professional practice or research.

Sec. 9. NEW SECTION. FORFEITURE.

1. The following are subject to forfeiture:

a. All imitation controlled substances which have been manufactured, delivered or acquired in violation of sections 4 through 9 of this Act.

b. All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting an imitation controlled substance in violation of sections 4 through 9 of this Act.

c. All property which is used, or intended for use, as a container for property described in paragraph a or b.

d. All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of sections 4 through 9 of this Act.

2. Property subject to forfeiture under this section may be seized when any of the following apply:

a. The seizure is incident to an arrest, or a search under a search warrant, or an inspection under an administrative inspection warrant issued as provided in section 204.502.

b. The property subject to seizure has been the subject of a prior judgment of forfeiture in favor of the state in an injunction or forfeiture proceeding based upon sections 4 through 9 of this Act.

c. There is probable cause to believe that the property was used or is intended to be used in violation of sections 4 through 9 of this Act.

3. If property, other than a conveyance subject to forfeiture, is seized under subsection 2, it shall be disposed of in accordance with chapter 809.

However, imitation controlled substances taken, detained, or forfeited shall be disposed of as provided in section 204.506. Imitation controlled substances are not subject to replevin.

Sec. 10. Section 204.501, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The department ~~shall be~~ is primarily responsible for the enforcement of ~~all provisions of~~ this chapter, and all other laws and regulations of this state, relating to controlled or counterfeit substances, or simulated or imitation controlled substances, except that the board ~~shall be~~ is primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, and health care facilities as defined in section 135C.1, subsection 8, as well as in the possession of any and all other individuals or institutions authorized to have possession of any controlled substances, and ~~shall~~ is also ~~be~~ primarily responsible for ~~such~~ any other duties in respect to controlled substances as ~~shall be~~ specifically delegated to the board by law. ~~Any~~ An officer or employee of the board may, when so directed or authorized by the board:

Sec. 11. Section 204.502, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. A district ~~or municipal court~~ judge or district associate judge, within ~~his~~ the court's jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections ~~authorized by~~ under this chapter or a related rule ~~thereunder, and~~ or under sections 4 through 9 of this Act. The warrant may also permit seizures of property appropriate to ~~such~~ the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of the ~~chapter~~ statute or related rules ~~promulgated thereunder~~, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

Sec. 12. Chapter 204, Code 1981, is amended by adding the following new section:

NEW SECTION. PENALTY ENHANCEMENT. A person convicted of violating a provision of this chapter, except section 204.401, subsection 3, may be fined an amount not to exceed three times the amount of the fine otherwise authorized for the violation. This fine may be in addition to any other penalty provided for violation of the provision.

Sec. 13. Section 204.505, subsection 1, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. Everything of value that is furnished or intended to be furnished in exchange for a controlled substance in violation of this chapter, all proceeds including real and personal property traceable to such an exchange, and all moneys, negotiable instruments, securities, and conveyances used or intended to be used to facilitate a violation of this chapter, except that property shall not be forfeited under this paragraph, to the extent of the interest of an owner, by reason of an act or omission committed or omitted without the owner's knowledge or consent. All moneys, coin, and currency found in close proximity to forfeitable controlled substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture, or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof is upon claimants of the property to rebut this presumption.

Sec. 14. Section 809.1, subsection 4, Code 1981, is amended to read as follows:

4. Property subject to forfeiture except ~~such property~~ forfeitable conveyances described in ~~chapters~~ chapter 127 and except forfeitable controlled substances described in chapter 204.

Sec. 15. Section 809.6, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If the seized property is of the type described in section 13 of this Act, and the court determines that it is forfeited as provided in section 13 of this Act, or a claimant's right to possession is not established under subsection 2 of section 809.5, the court shall order the property or the proceeds of its sale to be paid to the treasurer of state for deposit in the general fund.

Approved May 7, 1982

CHAPTER 1148

LEASING OF VACANT PUBLIC SCHOOL BUILDINGS

S.F. 2046

AN ACT requiring cities, counties, and state agencies to consider leasing vacant facilities and buildings owned by public school corporations before leasing, purchasing, or constructing a facility or building and requiring a public school corporation to notify certain cities and counties and the department of general services of vacant facilities and buildings owned by the public school corporation.

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

Section 1. Chapter 7A, Code 1981, is amended by adding the following new section:

NEW SECTION. EXECUTIVE ORDER. The governor shall issue an executive order requiring all state agencies to consider the leasing of a vacant facility or building which is appropriately located and which is owned by a public school corporation before a state agency leases, purchases, or constructs a facility or building. The state agency may lease a facility or building owned by a public school corporation with an option to purchase the facility or building in compliance with sections 297.22 through 297.24. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the state agency at least thirty days before the termination of the lease.

Sec. 2. Chapter 297, Code 1981, is amended by adding the following new section:

NEW SECTION. VACANCY NOTIFICATION. The board of directors shall notify the cities located within the school district, the counties in which the school district may be located, and the department of general services annually of the facilities and buildings owned by the public school corporation which are vacant and available to be leased or purchased.

Sec. 3. Section 331.361, Code 1981 Supplement, is amended by adding the following new subsection:

NEW SUBSECTION. The board shall not lease, purchase, or construct a facility or building before considering the leasing of a vacant facility or building which is located in the county and owned by a public school corporation. The board may lease a facility or building owned by the public school corporation with an option to purchase the facility or building in compliance with sections 297.22 through 297.24. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the board at least thirty days before the termination of the lease.

Sec. 4. Chapter 364, Code 1981, is amended by adding the following new section:

NEW SECTION. LEASING SCHOOL PROPERTY. A city shall not lease, purchase, or construct a building before considering the leasing of a vacant facility or building owned by a local public school corporation. The city may lease a facility or building owned by a local public school corporation with an option to purchase the facility or building in compliance with sections 297.22 through 297.24. The lease shall provide that the public school corporation may terminate the lease if the corporation needs to use the facility or building for school purposes. The public school corporation shall notify the city at least thirty days before the termination of the lease.

Approved May 14, 1982

CHAPTER 1149

PRISON INDUSTRIES

S.F. 2192

AN ACT relating to prison industries by changing the membership of the prison industries advisory board, the use of the inmate maintenance employees' pay supplement revolving fund, and contracts with private industry.

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

Section 1. Section 216.3, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. Five members shall be appointed by the governor for terms of four years beginning July 1 of the year of appointment. They shall be chosen as follows:

(1) ~~Three members~~ One member shall represent agriculture and ~~the~~ one member shall represent manufacturing ~~and construction industries, respectively~~, with particular reference to the roles of their constituencies as potential employers of inmates and former inmates of the state's correctional institutions.

(2) One member shall represent labor organizations, membership in which may be helpful to former inmates of the state's correctional institutions who seek to train for and obtain gainful employment.

(3) One member shall represent agencies, groups and individuals in this state which plan and maintain programs of vocational and technical education oriented to development of marketable skills.

(4) One member shall represent the financial industry and be familiar with accounting practices in private industry.

Sec. 2. The term of the person on the prison industries advisory board who represents the construction industry and which commenced before July 1, 1982 shall expire on July 1, 1982. The term of the person representing the financial industry shall be filled by the governor for the balance of the term remaining for the person who represented the construction industry and following the expiration of that term the term shall be for four years. This section shall not be codified in the 1983 Code of Iowa.

Sec. 3. Section 216.11, Code 1981, is amended to read as follows:

216.11 INMATE ~~MAINTENANCE~~ EMPLOYEES' PAY SUPPLEMENT REVOLVING FUND. There is established in the treasury of the state a permanent adult correctional institutions inmate ~~maintenance~~ employees' pay supplement revolving fund, consisting solely of money paid as board and maintenance by inmates employed by Iowa state industries, or employed pursuant to section 216.10. The fund established by this section ~~shall~~ may be used ~~only~~ to supplement the pay of inmates who perform ~~maintenance~~ other institutional work within and about the adult correctional institutions including those who are employed by Iowa state industries. Payments made from such fund shall supplement and not replace all or any part of the pay otherwise received by, and shall be equably distributed among such inmates. The employment of inmates to perform ~~such maintenance functions~~ other institutional or industry work shall, to the greatest extent feasible, be in accord with the intent stated in section 216.1. The fund may also be used to supplement other rehabilitation activities within the adult correctional institutions. Determination of the use of the funds is the responsibility of the director of adult corrections who shall first seek the advice of the prison industries advisory board.

Sec. 4. Chapter 216, Code 1981, is amended by adding after section 216.10 the following new sections:

NEW SECTION. PRIVATE INDUSTRY WORK FORCE. The state director with the advice of the prison industries advisory board may provide an inmate work force to private industry. Under the program inmates will be employees of a private business and eligible for all benefits and wages the same as other employees of the business engaged in similar work. The state director shall insure that security and screening procedures will protect the safety of the public. In administering this program the state director shall comply with the intent stated in section 216.1.

NEW SECTION. SUBCONTRACTING WITH IOWA STATE INDUSTRIES. Private or nonprofit organizations may subcontract with Iowa state industries to perform work in Iowa state industries shops located on the grounds of a state institution, or at other locations including the location of the private or nonprofit organization. The execution of the subcontract is subject to the following conditions:

1. Wages paid to inmates are commensurate with those paid employees doing similar work. This may include piece rating for which the individual would be paid only for what is produced. The private employer shall pay to Iowa state industries at a rate commensurate with wages paid to other workers performing similar work.

2. Such paid inmate employment will not result in displacement of employed workers.

3. The state director shall insure that security and screening procedures protect the safety of the public.

4. The state director shall comply with the intent of section 216.1.

Approved April 30, 1982

CHAPTER 1150

TRANSPORTING HAZARDOUS MATERIALS

S.F. 2100

AN ACT relating to the operation of motor carriers, truck operators, contract carriers, and liquid transport carriers by providing minimum liability limits for transporting hazardous materials and providing that drivers of those vehicles need a chauffeur's license but not necessarily an Iowa license.

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

Section 1. Section 321A.33, Code 1981, is amended to read as follows:

321A.33 EXCEPTIONS. This chapter ~~shall~~ does not apply ~~with respect~~ to any motor vehicle owned by the United States, this state, or any political subdivision of this state~~, or any municipality therein, nor~~ or to any operator, except for section 321A.4, while on official duty operating such motor vehicle~~; nor~~. This chapter does not apply, except for ~~section~~ sections 321A.4 and ~~section~~ 321A.26, ~~with respect~~ to any motor vehicle which is subject to ~~the requirements of~~ section 325.26, ~~and section~~ 327.15, 327A.5, or 327B.6.

Sec. 2. Section 325.26, subsection 2, paragraphs a and b, Code 1981, are amended to read as follows:

a. To cover the assured's legal liability as a motor carrier for bodily injury or death resulting therefrom, as a result of any one accident or other cause ~~twenty-five~~ one hundred thousand dollars for any recovery by one person and subject to ~~said~~ the limit for one person ~~fifty~~ three hundred thousand dollars for more than one person. However, the minimum limits of liability for motor carriers of hazardous materials subject to federal minimum limits of liability are those specified in 49 C.F.R. sec. 387.3 and sec. 387.9 as published in the federal register on June 11, 1981.

b. To cover the assured's legal liability as a motor carrier for damage to or destruction of any property other than that of or in charge of the assured, as a result of any one accident or other cause ten thousand dollars. However, the minimum limits of liability for motor carriers of hazardous materials subject to federal minimum limits of liability are those specified in 49 C.F.R. sec. 387.3 and sec. 387.9 as published in the federal register on June 11, 1981.

Sec. 3. Section 325.29, Code 1981, is amended to read as follows:

325.29 DRIVER OF VEHICLE. Every driver employed by a motor carrier shall be at least eighteen years of age, in good physical condition, of good moral character, shall be fully competent to operate the motor vehicle ~~under his charge~~, and shall hold a regular chauffeur's license ~~from the department~~.

Sec. 4. Section 327.15, subsections 1 and 2, Code 1981, are amended to read as follows:

1. To cover the assured's legal liability as a truck operator or contract carrier for bodily injury or death resulting therefrom as a result of any one accident or other cause, ~~twenty-five~~ one hundred thousand dollars for any recovery by one person, and subject to ~~said~~ the limit for one person ~~fifty~~ three hundred thousand dollars for more than one person. However, the minimum limits of liability for truck operators and contract carriers of hazardous materials subject to federal minimum limits of liability are those specified in 49 C.F.R. sec. 387.3 and sec. 387.9 as published in the federal register on June 11, 1981.

2. To cover the assured's legal liability as a truck operator or contract carrier for damage to or destruction of any property other than that of or in charge of the assured, as a result of any one accident or other cause, ten thousand dollars. However, the minimum limits of liability for truck operators and contract carriers of hazardous materials subject to federal minimum limits of liability are those specified in 49 C.F.R. sec. 387.3 and sec. 387.9 as published in the federal register on June 11, 1981.

Sec. 5. Section 327.18, Code 1981, is amended to read as follows:

327.18 DRIVERS – CONDITIONS. Every person driving a motor truck ~~as defined in this chapter~~ shall be at least eighteen years of age, in good physical condition, of good moral character, shall be fully competent to operate the motor truck ~~under his charge~~ and shall hold a regular chauffeur's license ~~from the department~~.

Sec. 6. Section 327A.5, subsections 1 and 2, Code 1981, are amended to read as follows:

1. To cover the assured's legal liability as a liquid transport carrier for bodily injury or death resulting therefrom as a result of any one accident or other cause, one hundred thousand dollars for any recovery by one person, and subject to ~~said~~ the limit for one person, ~~one~~ three hundred thousand dollars, for more than one person. However, the minimum limits of liability for liquid transport carriers of hazardous materials subject to federal minimum limits of liability are those specified in 49 C.F.R. sec. 387.3 and sec. 387.9 as published in the federal register on June 11, 1981.

2. To cover the assured's legal liability as a liquid transport carrier for damages to or destruction of any property other than that of or in charge of the assured, as a result of any one accident or other cause one hundred thousand dollars. However, the minimum limits of liability for liquid transport carriers of hazardous materials subject to federal minimum limits of liability are those specified in 49 C.F.R. sec. 387.3 and sec. 387.9 as published in the federal register on June 11, 1981.

Sec. 7. Section 327A.7, Code 1981, is amended to read as follows:

327A.7 DRIVERS REQUIREMENTS. Every driver employed by a liquid transport carrier shall be at least eighteen years of age~~;~~, in good physical condition, of good moral character, shall be fully competent to operate the vehicle ~~under his charge~~, and shall hold a regular chauffeur's license ~~from the department~~.

Sec. 8. Section 327B.6, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Registration under section 327B.1 shall not be granted until the carrier has filed with the state department of transportation evidence of insurance or surety bond issued by an insurance carrier or bonding company authorized to do business in this state and in the form prescribed by the rules adopted under 49 U.S.C. 302(b) (2) (1965). The minimum limits of liability for each interstate motor ~~truck~~ carrier for hire subject to federal minimum limits of liability are ~~as follows:~~ those specified in 49 C.F.R. sec. 387.3 and sec. 387.9 as published in the federal register on June 11, 1981 for motor carriers of property and 49 C.F.R. sec. 1043.5 as published in the federal register on June 11, 1981 for motor carriers of passengers.

Sec. 9. Section 327B.6, Code 1981, is amended by striking subsections 1 and 2.

Approved April 30, 1982

CHAPTER 1151

PROPERTY TAX COMPUTATION

S.F. 558

AN ACT to require the county auditor to round to the nearest even whole dollar the property tax bill for each property taxpayer.

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

Section 1. Section 443.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Before the first day of July in each year, the county auditor shall transcribe the assessments of the ~~several~~ townships ~~or~~ and cities into a book or record, to be known as the tax list, properly ruled and headed, with separate columns, in which shall be entered the names of the taxpayers, descriptions of lands, number of acres and value, numbers of city lots and value, value of personal property and each description of tax, with a column for polls and one for payments, and shall complete ~~the same~~ it by entering the amount due on each installment, separately, and carrying out the total of both installments. The total of all columns of each page of each book or other record shall balance with the tax totals. After computing the amount of tax due and payable on each property, the county auditor shall round the total amount of tax due and payable on the property to the nearest even whole dollar.

Approved April 30, 1982

CHAPTER 1152

REQUIREMENT FOR PREMARITAL SYPHILIS EXAMINATION ABOLISHED

S.F. 537

AN ACT to abolish the requirement for a premarital syphilis examination.

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

Section 1. Section 140.10, Code 1981, is amended to read as follows:

140.10 CERTIFICATE NOT TO BE ISSUED. ~~No~~ A certificate of freedom from ~~any~~ venereal disease shall not be issued to any person by any official health agency ~~except as provided by chapter 596~~.

Sec. 2. Section 595.17, Code 1981, is amended to read as follows:

595.17 EXCEPTIONS. The provisions of this chapter, ~~so far~~ as they relate to procuring licenses and to the solemnizing of marriages are not applicable to members of ~~any particular~~ a

denomination having~~, as such, any peculiar~~ an unusual mode of entering the marriage relation; ~~but each and every denomination and religious society thus exempted from the duties on the part of their members as to procuring a marriage license, before they allow such marriage relation to be entered into in their church, meeting or society, shall require and ascertain that a certificate as provided by chapter 596 has been filed in the office of the clerk of the court; in the county where such marriage ceremony is to take place; and the clerk of the district court shall not make any record or certificate regarding such marriage or marriage ceremony until such certificate has been filed in his office, as provided in section 596.2.~~

Sec. 3. Section 141.4 and chapter 596, Code 1981, are repealed.

Approved April 30, 1982

CHAPTER 1153

INTEREST PAYMENTS ON FINANCIAL TRANSACTIONS

S.F. 2195

AN ACT relating to financial transactions involving the payment of interest.

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

Section 1. Section 322.19, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 2. Section 322B.9, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 3. Section 322C.12, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 4. Section 535.2, subsection 2, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. The following persons may agree in writing to pay any rate of interest, and a person so agreeing in writing shall not plead or interpose the claim or defense of usury in any action or proceeding, and the person agreeing to receive the interest is not subject to any penalty or forfeiture for agreeing to receive or for receiving the interest:

(1) A person borrowing money for the purpose of acquiring real property or refinancing a contract for deed.

(2) A person borrowing money or obtaining credit in an amount which exceeds twenty-five thousand dollars, exclusive of interest, for the purpose of constructing improvements on real property, whether or not the real property is owned by the person.

(3) A vendee under a contract for deed to real property.

(4) A domestic or foreign corporation, and a real estate investment trust as defined in section 856 of the Internal Revenue Code, and a person purchasing securities as defined in

chapter 502 on credit from a broker or dealer registered or licensed under chapter 502 or under the Securities Exchange Act of 1934, 15 U.S.C., chapter 78A, as amended.

(5) A person borrowing money or obtaining credit for business or agricultural purposes, or a person borrowing money or obtaining credit in an amount which exceeds twenty-five thousand dollars for personal, family, or household purposes. As used in this paragraph, "agricultural purpose" means as defined in section 535.13, and "business purpose" includes but is not limited to a commercial, service, or industrial enterprise carried on for profit and an investment activity.

b. In determining exemptions under this subsection, the rules of construction stated in this paragraph apply:

(1) The purpose for which money is borrowed is the purpose to which a majority of the loan proceeds are applied or are designated in the agreement to be applied.

(2) Loan proceeds used to refinance or pay a prior loan owed by the same borrower are applied for the same purposes and in the same proportion as the original principal of the loan that is refinanced or paid.

(3) If the lender releases the original borrower from all personal liability with respect to the loan, loan proceeds used to pay a prior loan by a different borrower are applied for the new borrower's purposes in agreeing to pay the prior loan.

(4) If the lender releases the original borrower from all personal liability with respect to the loan, the assumption of a loan by a new borrower is treated as if the new borrower had obtained a new loan and had used all of the proceeds to pay the loan assumed.

(5) This paragraph does not modify or limit section 535.8, subsection 2, paragraph c or e.

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

Sec. 5. Section 535.2, subsection 4, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. Notwithstanding paragraph a, when a written agreement providing for the repayment of money loaned, and requiring the payment of over fifty percent of the initial principal amount of the loan as a single payment due at the end of the term of the agreement is extended, renewed, or otherwise amended by the parties on or after August 3, 1978, the parties may agree to the payment of interest from the effective date of the extension, renewal, or amendment, at a rate and in a manner that is lawful for a new agreement made on that date.

Sec. 6. Section 535.11, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 7. Section 535.13, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 8. Section 536A.23, subsection 1, unnumbered paragraph 1, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 9. Section 537.1301, subsection 12, paragraph a, subparagraph (5), Code 1981, is amended to read as follows:

(5) With respect to a sale of goods or services, the amount financed does not exceed ~~thirty-five~~ twenty-five thousand dollars.

Sec. 10. Section 537.1301, subsection 13, paragraph d, Code 1981, is amended to read as follows:

d. The amount payable under the lease does not exceed ~~thirty-five~~ twenty-five thousand dollars.

Sec. 11. Section 537.1301, subsection 14, paragraph a, subparagraph (5), Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 177, section 3, is amended to read as follows:

(5) Either the amount financed does not exceed ~~thirty-five~~ twenty-five thousand dollars, or the debt is secured by an interest in land.

Sec. 12. Section 537.1301, subsection 14, paragraph b, subparagraph (2), Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 177, section 3, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 13. Section 537.1301, subsection 19, paragraph a, subparagraph (1), Code 1981, is amended 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 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~~ is not ~~be~~ part of the finance charge for the purpose of determining maximum charges pursuant to section 537.2401. A cash discount permitted by this subparagraph ~~shall~~ is 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~~ the effective date of this Act and regulations issued pursuant to that Act ~~as so amended~~ prior to ~~October 28, 1975~~ the effective date of this Act.

Sec. 14. Section 537.1302, Code 1981, is amended to read as follows:

537.1302 DEFINITION—TRUTH IN LENDING ACT. As used in this chapter, "Truth in Lending Act" means title 1 of the Consumer Credit Protection Act, in subchapter 1 of chapter 41 of title 15 of the United States Code, as amended to and including ~~July 1, 1974~~ the effective date of this Act, and includes regulations issued pursuant to that Act prior to ~~that date~~ the effective date of this Act.

Sec. 15. Section 537.2201, subsection 2, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 16. Section 537.2401, subsection 1, Code 1981, is reenacted and is the law of this state on and after the effective date of this Act, notwithstanding any contrary provision of Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156.

Sec. 17. Section 537.3308, subsection 2, Code 1981, is amended by adding the following new paragraph as paragraph e:

NEW PARAGRAPH. e. A consumer loan in which the amount financed exceeds five thousand dollars and is secured by an interest in land.

Sec. 18.

1. Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1156, section 33, is repealed.

2. Section 535.6, Code 1981, is repealed.

3. Section 535.10, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 177, sections 1 and 2, is repealed.

Approved April 30, 1982

CHAPTER 1154

EXCEPTIONS FROM MOTOR VEHICLE LAW

S.F. 2231

AN ACT relating to the operation of certain motor vehicles on the public highways.

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

Section 1. Section 321.233, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~The provisions of this~~ This chapter, except ~~the provisions of~~ section 321.277 and sections 321.280 to 321.282 ~~shall~~ does not apply to persons~~, teams,~~ and motor vehicles and other equipment while actually engaged in work upon the surface of a highway officially closed to traffic but ~~shall~~ does apply to such persons and vehicles when traveling to or from such work. ~~The provisions of this chapter shall~~ Sections 321.297 and 321.298 do not apply to road workers operating maintenance equipment ~~operated by~~ owned by or under lease to any state or local authority while engaged in road maintenance, road blading, snow and ice control and removal, and granular resurfacing work~~, including to or from such work~~ on a highway, whether or not the highway is closed to traffic.

Sec. 2. Section 321.377, Code 1981, is amended to read as follows:

321.377 SPEED OF SCHOOL BUS. No motor vehicle in use as a school bus shall be operated at a speed in excess of fifty-five miles per hour on any fully controlled-access, divided, multilaned highways, interstate highways or on any four-lane primary highway. When not in operation on an interstate highway system or on any four-laned primary highway, the maximum speed for a school bus shall be fifty miles per hour ~~when used for purposes of an educational trip or for transporting pupils to and from any extracurricular activity, and forty-five miles per hour at all other times. Any violation of this section, by a driver, shall be deemed sufficient cause for canceling his contract. For the purpose of this section, interstate highways means those highways included in the national system of interstate highways designated by the federal highway administration and this state~~.

Sec. 3. Section 321.453, Code 1981, is amended to read as follows:

321.453 EXCEPTIONS. The provisions of this chapter governing size, weight, and load ~~shall~~ do not apply to fire apparatus, to road maintenance equipment owned by or under lease to any state or local authority, or to implements of husbandry temporarily moved upon a highway, or to implements moved between the retail seller and farm purchaser within a fifty-mile radius from corporate limits wherein ~~his~~ the retail seller's place of business is located, or implements received and moved by a retail seller of implements of husbandry in exchange for an implement purchased, except on any part of the interstate highway system, or to a vehicle operating under the terms of a special permit issued as provided in chapter 321E.

Approved May 21, 1982

CHAPTER 1155

BENEFITS RECEIVED FROM COMMISSION OF CRIME

S.F. 367

AN ACT relating to money or other compensation received by criminals as a result of the commission of crime.

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

Section 1. NEW SECTION. DISTRIBUTION OF MONEYS RECEIVED AS A RESULT OF THE COMMISSION OF CRIME.

1. Every person, firm, corporation, partnership, association, or other legal entity contracting with any person or the representative or assignee of any person, initially convicted of a crime in this state, shall pay over to the attorney general any money or other compensation received from the reenactment of the crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of the person's thoughts, feelings, opinions, or emotions regarding the crime, which money or other compensation would otherwise, by terms of the contract, be owing to the person so convicted or the person's representatives. The attorney general shall deposit the money or other compensation in an escrow account for the benefit of and payable to any victim or representative of the victim, who recovers a money judgment against the person or the person's representatives. Notwithstanding section 614.1, a victim or the victim's representative who has a cause of action for a crime for which an escrow account or receivership is established pursuant to this section, may bring the action against the escrow account or against the property in receivership within five years of the date the escrow account is established.

When the nature of the compensation to the person initially convicted of the crime is such that it cannot be placed in an escrow account, the attorney general shall assume the powers of a receiver under chapter 680 in taking charge of the property for benefit of and payable to any victim or representative of the victim. In those instances, the date the attorney general assumed the power of a receiver, shall be considered the date an escrow account was established for purposes of this section.

2. Once an escrow account or receivership is established, the attorney general shall make reasonable efforts to notify victims and representatives of victims of the escrow account or receivership and their possible rights under this section. The reasonable efforts shall include but are not limited to mailing the notification to known victims or representatives of known victims. The cost of notification shall be paid from the escrow account or from the sale of property held in receivership.

3. Upon disposition of charges favorable to any person accused of committing a crime, or upon a showing by the person that five years have elapsed from the date of establishment of the escrow account and further that no actions are pending against the person, the attorney general shall immediately pay over any money in the escrow account to the person.

4. Notwithstanding the other provisions of this section, the attorney general shall make payments from the escrow account or property held in receivership to the person accused of the crime upon the order of a court of competent jurisdiction after a showing by the person

that the money or other property shall be used for the exclusive purpose of retaining legal representation at any stage of the criminal proceedings against the person, including the appeals process.

5. An action taken by a person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose of this section is null and void as against the public policy of this state.

Approved May 19, 1982

CHAPTER 1156

COUNTY TAX LEVY FOR HEALTH CENTER

S.F. 559

AN ACT deleting the population requirement for counties to levy a tax for the operation, maintenance, and management of a health center.

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

Section 1. Section 346A.1, subsection 2, Code 1981, is amended to read as follows:

2. "Health center" means a building or buildings, together with necessary equipment, furnishings, facilities, accessories and appurtenances and the site or sites therefor used primarily for the purposes of providing centralized locations, at which a county ~~having a population as required by section 346A.2~~ may:

Sec. 2. Section 346A.2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 1060, is amended to read as follows:

346A.2 AUTHORIZED IN CERTAIN COUNTIES. Counties ~~having a population over seventy thousand, as determined by the last official United States census,~~ may undertake and carry out any project as defined in section 346A.1, and the boards may operate, control, maintain and manage health centers and additions to and facilities for health centers. The boards may appoint committees, groups, or operating boards as they ~~may~~ deem necessary and advisable to facilitate the operation and management of health centers, additions and facilities. A board may lease space in any health center to other public corporations, public agencies and private nonprofit agencies engaged in furnishing health, welfare and social services which lease shall be on terms and conditions ~~as~~ the board deems advisable. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with section 340, subsection 1, of this Act. To pay the cost of operating, maintaining and managing a health center the board of any such county may levy an annual tax in accordance with section 421, subsection 21, of this Act.

Sec. 3. Acts of the Sixty-ninth General Assembly, 1981 Session, Senate File 130, section 421, subsection 21, is amended to read as follows:

21. For operation, maintenance, and management of a health center ~~in a county of over seventy thousand population~~, not to exceed fifty-four cents per thousand dollars, in addition to all other levies authorized by law for similar purposes.

Approved May 3, 1982

CHAPTER 1157

FIRE SAFETY

H.F. 2409

AN ACT relating to fire safety, and providing penalties.

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

Section 1. Section 100.12, Code 1981, is amended to read as follows:

100.12 ADDITIONAL AUTHORITY. ~~In order to effect the purposes of this chapter, the~~ The chief of the fire department ~~aforesaid shall have authority to~~ or appropriate official as defined in section 100.2 may enter any building or premises ~~and~~ to examine the ~~same~~ building or premises and ~~the~~ its contents ~~thereof~~, and orally or in writing, ~~to~~ order the correction of any condition ~~contemplated by section 100.13~~ which is in violation of a provision of this chapter or a rule adopted under this chapter. ~~Should said~~ If the order ~~be~~ is not complied with the officer making the inspection shall report ~~such~~ results of the inspection ~~and the facts thereof~~ to the state fire marshal who shall proceed as though the inspection had been made by ~~himself~~ the state fire marshal.

Sec. 2. Section 100.13, Code 1981, is amended to read as follows:

100.13 REMOVAL OR REPAIR. When the fire marshal acting in person or through ~~his~~ a designated subordinate ~~shall find any~~ or through any fire chief or through a fire prevention officer of a fire department organized under chapter 400 finds a building or structure, which ~~for want of proper repair or by reason of age and dilapidated condition,~~ is especially liable to fire, ~~and is so situated as to endanger other buildings or property therein,~~ or ~~when any such official shall find~~ finds in any building or upon any premises combustible or explosive matter or ~~inflammable~~ flammable materials dangerous to the safety of any buildings or premises or finds a condition which violates a provision of this chapter or a rule adopted under this chapter, ~~he shall in writing~~ the fire marshal or a designated subordinate or any fire chief or any fire prevention officer of a fire department organized under chapter 400 may order ~~the same~~ it to be removed or remedied so that it is brought into compliance with all applicable provisions of this chapter and rules adopted under this chapter, or ~~he may~~ order the owner or occupant to follow safe-storage procedures for explosives as set forth by the fire prevention code of the ~~National Fire Protection Association~~ national fire protection association. Any ~~such~~ order must be in writing and shall be complied with by the owner or occupant of ~~said~~ the building or premises, within ~~such~~ a reasonable time as the fire marshal ~~shall specify~~ specifies. This chapter is not a bar to any legal or equitable remedies to which the fire marshal is entitled.

Sec. 3. Section 100.35, unnumbered paragaph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 46, section 2, is amended to read as follows:

The fire marshal shall adopt, and may amend, ~~promulgate and enforce~~ rules ~~and~~ under chapter 17A, which include standards relating to exits and exit lights, fire escapes, fire protection, fire safety and the elimination of fire hazards, in and for churches, schools, hotels, theaters, amphitheaters, hospitals, health care facilities as defined in section 135C.1, boarding homes or housing, rest homes, dormitories, college buildings, lodge halls, club rooms, public meeting places, places of amusement, apartment buildings, food establishments as defined in section 170.1, subsection 2, food service establishments as defined in section 170A.2, subsection 5, and all other buildings or structures to which persons congregate from time to time, whether publicly or privately owned. Violation of a rule adopted by the fire marshal is a simple misdemeanor ~~provided, however, that~~. However, upon proof that the fire marshal gave written notice to the defendant of the violation, and proof that the violation constituted a clear and present danger to life, and proof that the defendant failed to eliminate the condition giving rise to the violation within thirty days after receipt of notice from the fire marshal, the penalty ~~shall be~~ is that provided by law for a serious misdemeanor. Each day of the continuing violation of a rule after conviction of a violation of the rule is a separate offense. A conviction is subject to appeal as in other criminal cases.

Sec. 4. Section 170.38, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

170.38 FIRE PROTECTION REGULATION. Violation of a fire safety rule adopted pursuant to section 100.35 and applicable to food establishments, occurring on the premises of a food establishment, is a violation of this chapter.

Sec. 5. Section 170A.9, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

170A.9 FIRE PROTECTION REGULATIONS. Violation of a fire safety rule adopted pursuant to section 100.35 and applicable to food service establishments, occurring on the premises of a food service establishment, is a violation of this chapter.

Sec. 6. Section 170B.13, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

170B.13 FIRE PROTECTION REGULATIONS. Violation of a fire safety rule adopted pursuant to section 100.35 and applicable to hotels, occurring on the premises of a hotel, is a violation of this chapter.

Sec. 7. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 45, section 1, subsection 5, is amended to read as follows:

5. The state fire marshal or a designated subordinate shall ~~initially and may~~ annually inspect smoke detectors installed as required by subsection 2. Upon inspection, the state fire marshal shall issue a written notice to the owner or manager of a multiple-unit ~~residental~~ residential building informing the owner or manager of compliance or noncompliance with this section. The state fire marshal may contract with any political subdivision without fee assessed to either the state fire marshal or the political subdivision, for the performance of the inspection and notification responsibilities. The inspections authorized under this section are limited to the placement, repair, and operability of smoke detectors. Any broader inspection authority is not derived from this section. The state fire marshal shall adopt ~~administrative~~ rules under chapter 17A as necessary to enforce this section including rules concerning the placement of smoke detectors and the use of acceptable smoke detectors. The smoke detectors shall display a label or other identification issued by an approved testing agency or another label specifically approved by the state fire marshal. The state fire marshal shall not

require other than single-station smoke detectors. If smoke detectors are not required under subsection 4 due to the presence of an automatic smoke detection system, the state fire marshal shall not require other than the automatic smoke detection system.

Approved May 6, 1982

CHAPTER 1158

PLATTING AND RECORDING OF RESURVEYED OR SUBDIVIDED LAND

S.F. 396

AN ACT relating to the platting and recording of resurveyed or subdivided land and providing a penalty.

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

Section 1. Section 355.4, Code 1981, is amended to read as follows:

355.4 RULES TO BE FOLLOWED. In the resurvey and subdivision of land by county surveyors, their deputies or ~~other persons~~ registered land surveyors, the rules prescribed by the Acts of Congress, and the instructions of the secretary of the interior, copies of which shall be furnished ~~him~~ by the county, shall be ~~in all respects~~ followed. Likewise, in preparing the plat of the resurvey or subdivision of land, the provisions of section 409.31, subsections 2, 6, 9, 10, 11, and 12 shall be followed. When the survey has been completed, the surveyor shall attach a statement that the plat was prepared by the surveyor or under the surveyor's personal supervision. The statement shall be dated and signed by the surveyor. It shall bear the surveyor's Iowa registration number or seal and shall show the date of the survey and the location of the resurveyed or subdivided land within the quarter section as described in the record of the original survey of the same land.

Sec. 2. Section 355.7, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

355.7 RECORD. The plat and record shall show distinctly of what piece of land it is a survey, at whose personal request it was made, the surveyor, and the date of the survey. When land is resurveyed or subdivided, the surveyor shall record the plat no later than thirty days after completion of the resurvey or subdivision. The cost of recordation shall be paid to the county recorder by the surveyor upon presentation of the plat for recordation. The surveyor may charge the person requesting the resurvey or subdivision the costs of recordation. However, preparation and recordation of the plat shall not be required unless the survey was made for either of the following purposes:

1. To correct boundaries and descriptions of surveyed land.
2. To subdivide the land.

As used in this section, "subdivide" means dividing of land into two or more parcels.

Sec. 3. NEW SECTION. INDEXING OF PLATS BY RECORDER. The county recorder shall index a submitted plat by township, range, and section number. If the plat is in a recorded subdivision, the county recorder shall also index the plat alphabetically by subdivision name.

Sec. 4. Section 409.1, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A lot resulting from an act of subdivision otherwise subject to the requirements of this section is exempt from those requirements where all of the following conditions exist:

1. The parcel being subdivided has been improved by a group of structures capable of use for dwelling, commercial, manufacturing, processing or agricultural purposes, independently of any other group of structures on the parcel capable of one of those uses.

2. Both groups of structures were in existence on the land, or construction of them was begun on the land before July 1, 1976.

3. The act of subdivision causes the inclusion of any of the groups of structures on the lot.

Upon request by a proprietor, the county assessor shall certify that a particular group of structures was in existence on the land, or construction of them was begun on the land before July 1, 1976. As used in this paragraph, "group" and "groups" includes one or more structures.

Sec. 5. NEW SECTION. APPLICABILITY. Sections 1 through 3 of this Act apply to all agencies of the federal, state, county and local government and to all persons engaged in the private practice of land surveying.

Approved April 30, 1982

CHAPTER 1159

PASSIVE SOLAR ENERGY SYSTEMS

S.F. 312

AN ACT providing that passive solar energy systems added as improvements to buildings shall not increase the actual assessed and taxable value of the property for designated assessment years, and making certain provisions of the Act retroactive.

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

Section 1. Section 441.21, subsection 13, paragraph b, Code 1981, is amended to read as follows:

b. Notwithstanding paragraph "a" 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~~ the property for assessment years beginning on January 1, 1979 and ending on or before December 31, 1985. In addition, notwithstanding paragraph a of this subsection, any construction or installation of a solar energy system on property so classified shall not increase the actual, assessed and taxable values of the property for five full assessment years.

Sec. 2. Section 441.21, subsection 13, paragraph c, Code 1981, is amended by striking the paragraph and inserting in lieu thereof the following:

c. As used in this subsection "solar energy system" means either of the following:

(1) A system of equipment capable of collecting and converting incident solar radiation or wind energy into thermal, mechanical or electrical energy and transforming these forms of energy by a separate apparatus to storage or to a point of use which is constructed or installed after January 1, 1978.

(2) A system that uses the basic design of the building to maximize solar heat gain during the cold season and to minimize solar heat gain in the hot season and that uses natural means to collect, store and distribute solar energy which is constructed or installed after January 1, 1981.

In assessing and valuing the property for tax purposes, the assessor shall disregard any market value added by a solar energy system to a building. The director of revenue shall adopt rules, after consultation with the energy policy council, specifying the types of equipment and structural components to be included under the guidelines provided in this subsection.

Sec. 3. This Act becomes effective for assessment years beginning on or after January 1, 1982 and to that extent this Act is retroactive.

Approved April 30, 1982

CHAPTER 1160

REINSTATEMENT FEES FOR REVOKED MOTOR VEHICLE LICENSES

S.F. 260

AN ACT to provide for the payment of reinstatement fees for motor vehicle licenses revoked or suspended under the nonresident violators compact.

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

Section 1. Section 321.191, unnumbered paragraph 2, Code 1981, is amended to read as follows:

There shall be a fee of twenty dollars for reinstatement of a chauffeur's license or operator's license which is, after notice and opportunity for hearing, suspended or revoked pursuant to sections 321.193, 321.209, 321.210, except subsection 4 thereof, 321.513, 321.560, 321A.6, and 321B.7. ~~Such~~ The twenty-dollar fee shall be collected only if the person whose license was suspended or revoked was served personally with notice ~~thereof~~. If the person whose license was suspended or revoked was served notice ~~thereof~~ by restricted certified mail, the reinstatement fee shall be ten dollars.

Approved April 30, 1982

CHAPTER 1161

WORKERS' COMPENSATION

S.F. 539

AN ACT relating to workers' compensation and providing a penalty.

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

Section 1. Section 85.1, subsection 3, paragraph b, Code 1981, is amended to read as follows:

b. The following persons or employees or groups of employees ~~shall be~~ are specifically included within the ~~terms of the~~ exemption from coverage of this chapter provided by this subsection:

(1) The spouse of the employer ~~and~~, parents, brothers, sisters, children and stepchildren of either the employer or the spouse of the employer~~; and~~, and the spouses of the brothers, sisters, children, and stepchildren of either the employer or the spouse of the employer.

(2) ~~Any person engaged in agriculture as a farm operator or spouse of such farm operator or parents, brothers, sisters, children and stepchildren of either such farm operator or spouse while exchanging labor with another farm operator or spouse of such other farm operator or parents, brothers, sisters, children, and stepchildren of either such other farm operator or spouse for the mutual benefit of any or all such persons; and~~ The spouse of a partner of a partnership, the parents, brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, and the spouses of the brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, who are employed by the partnership and actually engaged in agricultural pursuits or operations immediately connected with the agricultural pursuits either on or off the premises of the partnership. For the purpose of this section, "partnership" includes partnerships, limited partnerships, and joint ventures.

(3) ~~The president, vice president, secretary, treasurer,~~ Officers of a family farm corporation ~~and their~~, spouses ~~and~~ of the officers, the parents, brothers, sisters, children and stepchildren of ~~such~~ either the officers ~~and their~~ or the spouses of the officers, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or the spouses of the officers who are employed by ~~such~~ the corporation, the primary purpose of which, although not necessarily the stated purpose, is farming or ownership of agricultural land, and ~~while such officer or person related to the officer is~~ who are actually engaged in agricultural pursuits or ~~any operation~~ operations immediately connected ~~therewith whether~~ with the agricultural pursuits either on or off the premises of the ~~employer~~ corporation.

(4) A person engaged in agriculture as an owner of agricultural land, as a farm operator, or as a person engaged in agriculture who is exempt from coverage under this chapter by subsection 3, paragraph b, subparagraph 1, 2, or 3, while exchanging labor with another owner of agricultural land, farm operator, or person engaged in agriculture who is exempt from coverage under this chapter by subsection 3, paragraph b, subparagraph 1, 2, or 3, for the mutual benefit of all such persons.

Sec. 2. Section 85.1, subsection 5, Code 1981, is amended to read as follows:

5. Employers, including employers of employees engaged in any type of service in or about a private dwelling, employers of persons whose employment is of a casual nature and not for the purpose of the employer's trade or business, and employers of persons engaged in

agriculture, may with respect to ~~any such~~ an employee or person or classification of employees exempt by subsections 1, 2 and 4 and subsection 3, paragraph "a" of this section from coverage provided by this chapter, other than ~~any such~~ the employee or classification of employees with respect to whom a rule of liability or a method of compensation ~~has been or may be~~ is established by the congress of the United States, assume a liability for compensation imposed upon employers by this chapter for the benefit of employees within the coverage of this chapter. Employers of employees, persons or classifications of employees exempted by paragraph "b" of subsection 3 of this section may ~~also~~ with respect to ~~any~~ such employee, person or classification of employees assume a liability for compensation imposed upon employers by this chapter by the purchase of valid workers' compensation insurance specifically including separate classifications for (a) such persons who are the spouse ~~and~~ of the employer, parents, brothers, sisters, children and stepchildren of either the employer or ~~his~~ the spouse of the employer, and the spouses of the brothers, sisters, children, and stepchildren of either the employer or the spouse of the employer, (b) persons engaged in exchanging labor and (c) ~~the president, vice president, treasurer and secretary~~ officers of a family farm corporation, ~~their~~ spouses ~~and~~ of the officers, the parents, brothers, sisters, children ~~or~~, and stepchildren of ~~such~~ either the officers ~~and their~~ or the spouses of the officers, and the spouses of the brothers, sisters, children, and stepchildren of either the officers or the spouses of the officers, and (d) the spouse of a partner of a partnership, the parents, brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner, and the spouses of the brothers, sisters, children, and stepchildren of either a partner or the spouse of a partner. The purchase of and acceptance by ~~any such~~ an employer of valid workers' compensation insurance applicable to such employee or person or classification of employees ~~shall constitute as to such employer~~ constitutes an assumption by ~~such~~ the employer of ~~such~~ liability without any further act on the part of ~~such~~ the employer, but only with respect to such employee or person or ~~such~~ classification of employees as are within the coverage of the ~~said~~ workers' compensation insurance contract. ~~Whenever~~ If under ~~the provisions of~~ this subsection an employer voluntarily elects to assume the liability for the payment of compensation to such employees or persons or ~~such~~ classification of employees by the purchase of valid workers' compensation insurance, the liability of ~~such~~ the employer ~~shall take~~ takes effect and ~~continue~~ continues from the effective date of ~~such~~ the workers' compensation insurance contract as long ~~only~~ as ~~such~~ the insurance contract ~~shall be~~ is in force. Upon ~~such~~ an election, such employee or person or classification of employees shall accept compensation in the manner provided by the chapter and the employer shall be relieved from any other liability for recovery of damage, or other compensation for ~~such~~ injury.

Sec. 3. Section 85.26, subsection 1, Code 1981, is amended to read as follows:

1. ~~No~~ An original ~~proceedings~~ proceeding for benefits under this chapter or chapter 85A, 85B, or 86, shall not be maintained in any contested case unless ~~such proceedings shall be~~ the proceeding is commenced within two years from the date of the occurrence of the injury for which benefits are claimed ~~except as provided by section 86.20~~ or, if weekly compensation benefits are paid under section 86.13, within three years from the date of the last payment of weekly compensation benefits.

Sec. 4. Section 85.27, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Any employee, employer or insurance carrier making or defending a claim for benefits agrees to the release of all information to which ~~they have~~ the employee, employer, or carrier has access concerning the employee's physical or mental condition relative to the claim and further waives any privilege for the release of ~~such~~ the information. ~~Such~~ The information shall be made available to any party or ~~their attorney~~ the party's representative upon

request. Any institution or person releasing ~~such~~ the information to a party or ~~their attorney~~ the party's representative shall not be liable criminally or for civil damages by reason of the release of ~~such~~ the information. If release of information is refused the party requesting ~~such~~ the information may apply to the industrial commissioner for relief. The information requested shall be submitted to the industrial commissioner who shall determine the relevance and materiality of the information to the claim and enter an order accordingly.

Sec. 5. Section 85.30, Code 1981, is amended to read as follows:

85.30 MATURITY DATE AND INTEREST. Compensation payments shall be made each week beginning on the eleventh day after the injury, and each week thereafter during the period for which compensation is payable, and if not paid when due, there shall be added to ~~such~~ the weekly compensation payments, interest at ~~six percent from date of maturity~~ the rate provided in section 535.3 for court judgments and decrees.

Sec. 6. Section 85.31, subsection 1, unnumbered paragraph 2, Code 1981, is amended to read as follows:

The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the ~~state~~ statewide average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section 96.3 and in effect at the time of the injury, provided, that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it ~~shall equal~~ equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the ~~state~~ statewide average weekly wage as determined above; ~~provided further, that such weekly compensation shall not be less than thirty-six dollars per week, except if at the time of his injury his earnings are less than thirty-six dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings~~. However, the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 7. Section 85.33, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

85.33 TEMPORARY TOTAL AND TEMPORARY PARTIAL DISABILITY.

1. Except as provided in subsection 2 of this section, the employer shall pay to an employee for injury producing temporary total disability weekly compensation benefits, as provided in section 85.32, until the employee has returned to work or is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, whichever occurs first.

2. "Temporary partial disability" or "temporarily, partially disabled" means the condition of an employee for whom it is medically indicated that the employee is not capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, but is able to perform other work consistent with the employee's disability. "Temporary partial benefits" means benefits payable, in lieu of temporary total disability and healing period benefits, to an employee because of the employee's temporary partial reduction in earning ability as a result of the employee's temporary partial disability. Temporary partial benefits shall not be considered benefits payable to an employee, upon termination of temporary partial or temporary total disability, the healing period, or permanent partial disability, because the employee is not able to secure work paying weekly earnings equal to the employee's weekly earnings at the time of injury.

3. If an employee is temporarily, partially disabled and the employer for whom the employee was working at the time of injury offers to the employee suitable work consistent with the employee's disability the employee shall accept the suitable work, and be compensated with temporary partial benefits. If the employee refuses to accept the suitable work the employee shall not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal.

4. If an employee is entitled to temporary partial benefits under subsection 3 of this section, the employer for whom the employee was working at the time of injury shall pay to the employee weekly compensation benefits, as provided in section 85.32, for and during the period of temporary partial disability. The temporary partial benefit shall be sixty-six and two-thirds percent of the difference between the employee's weekly earnings at the time of injury, computed in compliance with section 85.36, and the employee's actual gross weekly income from employment during the period of temporary partial disability. If at the time of injury an employee is paid on the basis of the output of the employee, with a minimum guarantee pursuant to a written employment agreement, the minimum guarantee shall be used as the employee's weekly earnings at the time of injury. However, the weekly compensation benefits shall not exceed the payments to which the employee would be entitled under section 85.36 or section 85.37, or under subsection 1 of this section.

5. If an employee sustains an injury arising out of and in the course of employment while receiving temporary partial disability benefits, the rate of weekly compensation benefits shall be based on the employee's weekly earnings at the time of the injury producing temporary partial disability.

Sec. 8. Section 85.34, subsection 1, Code 1981, is amended to read as follows:

1. HEALING PERIOD. If an employee has suffered a personal injury causing permanent partial disability for which compensation is payable as provided in subsection 2 of this section, the employer shall pay to the employee compensation for a healing period, as provided in section 85.37, beginning on the date of ~~the~~ injury, and until ~~he~~ the employee has returned to work or ~~competent medical evidence indicates that recuperation from said injury has been accomplished, whichever comes first~~ it is medically indicated that significant improvement from the injury is not anticipated or until the employee is medically capable of returning to employment substantially similar to the employment in which the employee was engaged at the time of injury, whichever occurs first.

Sec. 9. Section 85.34, subsection 2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 ~~hereof~~. ~~Such~~ The compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. ~~Such~~ The compensation shall be based upon the extent of ~~such~~ the disability and upon the basis of eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-one and one-third percent of the ~~state~~ statewide average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section 96.3 and in effect at the time of the injury, provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it ~~shall equal~~ equals ninety-two percent, one hundred twenty-two and two-thirds percent, one hundred fifty-three and one-third percent, and one hundred eighty-four percent, respectively, of the ~~state~~ statewide average weekly wage as determined above; ~~provided that no employee shall receive as compensation less than thirty-six dollars per week, except if at the time of his injury his earnings are less than thirty-six dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings; and for~~. However, the minimum weekly benefit amount shall be equal to

the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. For all cases of permanent partial disability ~~such~~ compensation shall be paid as follows:

Sec. 10. Section 85.34, subsection 3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the ~~state~~ statewide average weekly wage paid employees as determined by the director of the Iowa department of job service under the provisions of section 96.3 and in effect at the time of the injury, provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it ~~shall equal~~ equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the ~~state~~ statewide average weekly wage as determined above. ~~No employee shall receive as compensation less than thirty-six dollars per week, except if at the time of the injury the employee's earnings are less than thirty-six dollars per week, then the weekly compensation shall be a sum equal to the full amount of the employee's weekly earnings; said~~ However, the minimum weekly benefit amount is equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. The weekly compensation ~~shall be~~ is payable during the period of the employee's disability.

Sec. 11. Section 85.34, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If an employee is paid weekly compensation benefits for temporary total disability under section 85.33, subsection 1, for a healing period under section 85.34, subsection 1, or for temporary partial disability under section 85.33, subsection 2, in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess shall be credited against the liability of the employer for permanent partial disability under section 85.34, subsection 2, provided that the employer or the employer's representative has acted in good faith in determining and notifying an employee when the temporary total disability, healing period, or temporary partial disability benefits are terminated.

Sec. 12. Section 85.36, subsection 10, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~In the case of~~ If an employee ~~who~~ earns either no wages or less than the usual weekly earnings of the regular full-time adult laborer in the line of industry in which the employee is injured in that locality, the weekly earnings shall be one-fiftieth of the total earnings which the employee has earned from all employment during the twelve calendar months immediately preceding the injury ~~but shall be not less than an amount equal to thirty-five percent of the state average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section 96.3, and in effect at the time of the injury~~.

Sec. 13. Section 85.36, subsection 10, paragraph a, Code 1981, is amended to read as follows:

a. In computing the compensation to be allowed a volunteer fire fighter, or reserve peace officer, ~~his or her~~ the earnings as a fire fighter or reserve peace officer shall be disregarded and ~~he or she~~ the volunteer fire fighter or reserve peace officer shall be paid ~~the maximum compensation allowable under the workers' compensation law~~ an amount equal to the compensation the volunteer fire fighter or reserve peace officer would be paid if injured in the normal course of the volunteer fire fighter's or reserve peace officer's regular employment or an amount equal to one hundred and forty percent of the statewide average weekly wage, whichever is greater.

Sec. 14. Section 85.37, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~In all cases where~~ If an employee receives a personal injury causing temporary total disability, or causing a permanent partial disability for which compensation is payable during a healing period, compensation for ~~such~~ the temporary total disability or for ~~such~~ the healing period shall be upon the basis provided ~~herein~~ in this section. The weekly benefit amount payable to any employee for any one week shall be upon the basis of eighty percent of the employee's weekly spendable earnings, but shall not exceed an amount, rounded to the nearest dollar, equal to sixty-six and two-thirds percent of the ~~state~~ statewide average weekly wage paid employees as determined by the Iowa department of job service under the provisions of section 96.3 and in effect at the time of the injury provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it ~~shall equal~~ equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent, and two hundred percent, respectively, of the ~~state~~ statewide average weekly wage as determined above. Total weekly compensation for any employee shall not exceed eighty percent per week of the employee's weekly spendable earnings; ~~provided further, that such compensation shall not be less than thirty-six dollars per week, except if at the time of his injury his earnings are less than thirty-six dollars per week, then he shall receive in weekly payments a sum equal to the full amount of his weekly earnings~~. However, the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage, or to the spendable weekly earnings of the employee, whichever is less.

Sec. 15. Section 85.39, Code 1981, is amended to read as follows:

85.39 EXAMINATION OF INJURED EMPLOYEES. After an injury, the employee, if ~~so~~ requested by ~~his~~ the employer, shall submit ~~himself~~ for examination at some reasonable time and place ~~within the state~~ and as often as ~~may be~~ reasonably requested, to a physician or physicians authorized to practice under the laws of this state or another state, without cost to the employee; but if the employee requests, ~~he~~ the employee ~~shall~~, at ~~his~~ the employee's own cost, ~~be~~ is entitled to have a physician or physicians of ~~his~~ the employee's own selection present to participate in ~~such~~ the examination. ~~Whenever~~ If an employee is required to leave ~~his~~ work for which ~~he~~ the employee is being paid wages to attend ~~upon such~~ the requested examination, ~~he~~ the employee shall be compensated at ~~his~~ the employee's regular rate for the time ~~he shall have lost by reason thereof~~ the employee is required to leave work, and ~~he~~ the employee shall be furnished transportation to and from the place of examination, or the employer may elect to pay ~~him~~ the employee the reasonable cost of ~~such~~ the transportation. The refusal of the employee to submit to ~~such~~ the examination shall ~~deprive him of the~~ suspend the employee's right to any compensation for the period of ~~such~~ the refusal. ~~When a right of compensation is thus suspended, no compensation~~ Compensation shall not be payable for the period of suspension.

~~Whenever~~ If an evaluation of permanent disability has been made by a physician retained by the employer and the employee believes this evaluation to be too low, ~~he~~ the employee shall, upon application to the commissioner and ~~at the same time~~ upon delivery of a copy of the application to the employer and its insurance carrier, be reimbursed by the employer the

reasonable fee for a subsequent examination by a physician of ~~his~~ the employee's own choice, and reasonably necessary transportation expenses incurred for ~~such~~ the examination. The physician chosen by the employee ~~shall have~~ has the right to confer with and obtain from the employer-retained physician sufficient history of the injury to make a proper examination.

Sec. 16. Section 85.47, Code 1981, is amended to read as follows:

85.47 BASIS OF COMMUTATION. When the commutation is ordered, the industrial commissioner shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments capitalized at their present value and upon the basis of interest, ~~calculated~~ at ~~five percent per annum~~ the rate provided in section 535.3 for court judgments and decrees. Upon the payment of such amount the employer shall be discharged from all further liability on account of ~~such~~ the injury or death, and be entitled to a duly executed release, upon filing which the liability of ~~such~~ the employer under any agreement, award, finding, or judgment shall be discharged of record.

Sec. 17. Section 85.48, Code 1981, is amended to read as follows:

85.48 PARTIAL COMMUTATION. When partial commutation is ordered, the industrial commissioner shall fix the lump sum to be paid at an amount which will equal the future payments for the period commuted, capitalized at their present value upon the basis of interest ~~calculated~~ at ~~five percent per annum~~ the rate provided in section 535.3 for court judgments and decrees, with provisions for the payment of weekly compensation not included in ~~such~~ the commutation, subject to ~~any provisions of~~ the law applicable to such unpaid weekly payments; all remaining payments, if any, to be paid at the same time as though ~~such~~ the commutation had not been made.

Sec. 18. Section 85.61, subsection 2, unnumbered paragraph 2, Code 1981, is amended to read as follows:

~~"Workman"~~ "Worker" or "employee" ~~shall include~~ includes an inmate as defined in section 85.59.

Sec. 19. Section 85.61, subsection 10, Code 1981, is amended to read as follows:

10. "Payroll taxes" means an amount, determined by tables adopted by the industrial commissioner pursuant to chapter 17A, equal to the sum of the following:

a. An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under the Internal Revenue Code of 1954, and regulations pursuant thereto, as amended ~~to July 1, 1976~~, as though the employee had elected to claim the maximum number of exemptions for actual dependency, blindness and old age to which the employee is entitled on the date on which ~~he~~ the employee was injured~~, and~~.

b. An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under chapter 422, and any rules pursuant thereto, as though the employee had elected to claim the maximum number of exemptions for actual dependency, blindness and old age to which the employee is entitled on the date on which ~~he~~ the employee was injured~~; and~~.

c. An amount equal to the amount required on July 1 preceding the injury by the Social Security Act of 1935 as amended ~~to July 1, 1976~~, to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which ~~he~~ the employee was injured.

Sec. 20. Section 85.65, Code 1981, is amended to read as follows:

85.65 PAYMENTS TO SECOND INJURY FUND. The employer, or, if insured, ~~his or her~~ the 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~~ two thousand dollars~~, said~~ in a case where there are dependents and five thousand dollars in a case where there are no dependents. The payment ~~to~~ shall 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~~. However, ~~that such~~ the payments shall be required only in cases of injury resulting in death coming within the purview of this chapter and occurring after July 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. 21. Section 85.66, unnumbered paragraph 1, Code 1981, is amended to read as follows:

When the total amount of ~~such~~ the payments provided for in the preceding section, together with accumulated interest ~~thereon~~ and earnings, equals or exceeds ~~one~~ five hundred thousand dollars no further contributions to ~~said~~ the fund shall be required; but ~~whenever~~ when, thereafter, the amount of ~~such~~ the sum ~~shall be~~ is reduced below ~~fifty~~ three hundred 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~~ the sum, together with accumulated interest and earnings, ~~shall~~ again ~~amount~~ amounts to ~~one~~ five hundred thousand dollars. The industrial commissioner shall ~~promulgate~~ adopt rules for the maintenance of the second injury fund and the making of contributions ~~thereto~~ to the fund, and shall determine when ~~the~~ contributions shall be made to ~~said~~ the fund and when they shall be suspended; and ~~he or she is hereby empowered and authorized to~~ the commissioner may enforce ~~said~~ the rules and the collection of ~~said~~ contributions.

Sec. 22. Chapter 85, Code 1981, is amended by adding the following new section:

NEW SECTION. PAYMENTS CONCERNING LIABILITY DISPUTES.

1. The industrial commissioner may order any number or combination of alleged workers' compensation insurance carriers and alleged employers, which are parties to a contested case or to a dispute which could culminate in a contested case, to pay all or part of the benefits due to an employee or an employee's dependent or legal representative if any of the carriers or employers agree, or the commissioner determines after an evidentiary hearing, that one or more of the carriers or employers is liable to the employee or to the employee's dependent or legal representative for benefits under this chapter or under chapter 85A or 85B, but the carriers or employers cannot agree, or the commissioner has not determined which carriers or employers are liable.

2. Unless waived by the carriers or employers ordered to pay benefits, the industrial commissioner shall order an employer, which is not ordered to pay benefits and which does not have in force a policy of workers' compensation insurance issued by any carrier which is a party to the case or dispute and covering the claim made by the employee or the employee's dependent or legal representative, to post a bond or to deposit cash with the commissioner equal to the benefits paid or to be paid by the carriers or employers ordered to pay benefits. If any employer is ordered by the commissioner to post bond or to deposit cash, the employers or carriers ordered to pay benefits are not obligated to pay benefits until the bond is posted or the cash is deposited. The commissioner may order the bond or cash deposit to be increased.

3. When liability is finally determined by the industrial commissioner, the commissioner shall order the carriers or employers liable to the employee or to the employee's dependent or legal representative to reimburse the carriers or employers which are not liable but were required to pay benefits. Benefits paid or reimbursed pursuant to an order authorized by this section do not require the filing of a memorandum of agreement. However, a contested case for benefits under this chapter or under chapter 85A or 85B shall not be maintained against a party to a case or dispute resulting in an order authorized by this section unless the contested case is commenced within three years from the date of the last benefit payment under the order. The commissioner may determine liability for the payment of workers' compensation benefits under this section.

Sec. 23. Section 86.13, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

86.13 COMPENSATION PAYMENTS. If an employer or insurance carrier pays weekly compensation benefits to an employee, the employer or insurance carrier shall file with the industrial commissioner on forms prescribed by the industrial commissioner a notice of the commencement of the payments. The payments establish conclusively that the employer and insurance carrier have notice of the injury for which benefits are claimed but the payments do not constitute an admission of liability under this chapter or chapter 85, 85A, or 85B.

If an employer or insurance carrier fails to file the notice required by this section, the failure stops the running of the time periods in section 85.26 as of the date of the first payment. If commenced, the payments shall be terminated only when the employee has returned to work, or upon thirty days notice stating the reason for the termination and advising the employee of the right to file a claim with the industrial commissioner.

This section does not prevent the parties from reaching an agreement for settlement regarding compensation. However, the agreement is valid only if signed by all parties and approved by the industrial commissioner.

If a delay in commencement or termination of benefits occurs without reasonable or probable cause or excuse, the industrial commissioner shall award benefits in addition to those benefits payable under this chapter, or chapter 85, 85A, or 85B, up to fifty percent of the amount of benefits that were unreasonably delayed or denied.

Sec. 24. Section 86.24, subsection 4, Code 1981, is amended to read as follows:

4. A transcript of a contested case proceeding shall be provided by ~~the~~ an appealing party at ~~his or her~~ the party's cost and an affidavit shall be filed by the appealing party or the party's attorney with the industrial commissioner within ~~thirty~~ ten days after the filing of the appeal to the industrial commissioner stating that the transcript has been ordered and identifying the name and address of the reporter or reporting firm from which the transcript has been ordered.

Sec. 25. Section 86.42, Code 1981, is amended to read as follows:

86.42 JUDGMENT BY DISTRICT COURT ON AWARD. Any party in interest may present a certified copy of an order or decision of the commissioner, from which ~~no~~ a timely petition for judicial review has not been filed or if judicial review has been filed, which has not had execution or enforcement stayed as provided in section 17A.19, subsection 5, or an order or decision of a deputy commissioner from which ~~no~~ a timely appeal has not been taken within the agency and which has become final by the passage of time as provided by rule and section 17A.15, or ~~a memorandum of~~ an agreement for settlement approved by the commissioner, and all papers in connection therewith, to the district court where judicial review of the agency action may be commenced~~, whereupon said~~. The court shall render a decree or judgment ~~in accordance therewith~~ and cause the clerk to notify the parties. ~~Such~~ The decree or judgment, in the absence of a petition for judicial review or if judicial review has been commenced, in the absence of a stay of execution or enforcement of the decision or order of the industrial commissioner, or in the absence of an act of any party which prevents a decision of a deputy industrial commissioner from becoming final, ~~shall have~~ has the same effect and in all proceedings in relation thereto ~~shall thereafter be~~ is the same as though rendered in a suit duly heard and determined by ~~said~~ the court.

Sec. 26. Section 87.21, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. In an action at law for damages the parties have a right to trial by jury.

Sec. 27. Section 239A.2, subsection 3, paragraph c, Code 1981, is amended to read as follows:

c. The employees must be considered regular employees of the unit of local government involved and must be entitled to participate in benefit programs of that unit of local government, including but not limited to ~~workmen's~~ workers' compensation, but shall not be entitled to qualify for unemployment compensation benefits on the basis of employment under the project.

Sec. 28. Section 86.20 and sections 87.24 through 87.27, Code 1981, are repealed.

Approved May 3, 1982

CHAPTER 1162

VICTIM RESTITUTION

S.F. 2280

AN ACT relating to restitution by public offenders.

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

Section 1. Sections 2 through 10 of this Act shall be enacted as a new chapter of the Code.

Sec. 2. NEW SECTION. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Victim" means any person who has suffered pecuniary damages as a result of the offender's criminal activities. However, for purposes of this chapter, an insurer is not a victim and does not have a right of subrogation.

2. "Pecuniary damages" means all damages to the extent not paid by an insurer, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, "pecuniary damages" includes damages for wrongful death.

3. "Criminal activities" means any crime for which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered and any other crime committed after July 1, 1982 which is admitted or not contested by the offender, whether or not prosecuted. However, "criminal activities" does not include simple misdemeanors under chapter 321.

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. Restitution shall also include the payment of court costs, court-appointed attorney's fees or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when no victim has suffered pecuniary damages and the offender cannot reasonably pay all or part of the court costs, court-appointed attorney's fees or the expense of a public defender.

Sec. 3. NEW SECTION. RESTITUTION ORDERED BY SENTENCING COURT. In all criminal cases except simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of his or her criminal activities and, to the extent that the offender is reasonably able to do so, to the

county where conviction was rendered for court costs, court-appointed attorney's fees or the expense of a public defender when applicable. However, victims shall be paid in full before restitution payments are paid to the county for court costs, court-appointed attorney's fees or for the expense of a public defender. When no victim has suffered pecuniary damages and the offender is not reasonably able to pay all or a part of the court costs, court-appointed attorney's fees or the expense of a public defender, the court may require the offender to perform a needed public service for any governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 4. NEW SECTION. DETERMINATION OF AMOUNT OF RESTITUTION. The court shall require the county attorney to promptly prepare a statement of pecuniary damages to victims of the defendant and shall require the clerk of court to prepare a statement of court-appointed attorney's fees, the expense of a public defender and court costs which shall be promptly provided to the presentence investigator. These statements shall become a part of the presentence report. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. This shall be known as the plan of restitution.

Sec. 5. NEW SECTION. CONDITION OF PROBATION—PAYMENT PLAN. When restitution is ordered by the sentencing court and the offender is placed on probation, restitution shall be a condition of probation. Failure of the offender to comply with the plan of restitution, plan of payment, or community service requirements when community service is ordered by the court as restitution, shall constitute a violation of probation and shall constitute contempt of court. The court may hold the offender in contempt, revoke probation, or may extend the period of probation in such circumstances. However, if the period of probation is extended it shall not be for more than the maximum period of probation for the offense committed as provided in section 907.7.

If an offender's probation is revoked, his or her assigned probation officer shall forward to the director of the division of adult corrections, information concerning the offender's restitution plan, restitution plan of payment, the restitution payment balance, and any other pertinent information concerning or affecting restitution by the offender.

When the offender is committed by the court to be supervised by a judicial district department of correctional services, is committed to a county jail, or to an alternate facility, the judicial district department of correctional services shall prepare a restitution plan of payment taking into consideration the offender's income, physical and mental health, age, education, employment and family circumstances. The judicial district department of correctional services shall review the plan of restitution ordered by the court, and shall submit a restitution plan of payment to the sentencing court. When community service is ordered by the court as restitution, the restitution plan of payment shall set out a plan to meet the requirement for the community service. The court may approve or modify the plan of restitution and restitution plan of payment. When there is a significant change in the offender's income or circumstances, the judicial district department of correctional services which has supervision of the plan of payment shall submit a modified restitution plan of payment to the court. When

there is a transfer of supervision from one agent, agency, or judicial district department of correctional services to another, the sending agent, agency or judicial district department shall forward to the receiving agent, agency, or judicial district department, all necessary information regarding the balance owed against the original amount of restitution ordered and the balance of public service required. When the offender's circumstances and income have significantly changed, the receiving agent, agency, or judicial district department shall submit a new plan of payment to the sentencing court for approval or modification based on the considerations enumerated in this section.

Sec. 6. NEW SECTION. CONDITION OF WORK RELEASE OR PAROLE.

1. When an offender is committed to the custody of the director of the division of adult corrections pursuant to a sentence of confinement, the sentencing court shall forward to the director, a copy of the offender's restitution plan, present restitution payment plan if any, and other pertinent information concerning or affecting restitution by the offender. However, if the offender is committed to the custody of the director after revocation of probation, this information shall be forwarded by the offender's probation officer.

An offender committed to a penal or correctional facility of the state, shall make restitution while placed in that facility. Upon commitment to the custody of the director of the division of adult corrections, the director or the director's designee shall prepare a restitution plan of payment or modify any existing plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. The director or the director's designee may modify the plan of payment at any time to reflect the offender's present circumstances.

2. If an offender is to be placed on work release from an institution under the control of the director of the division of adult corrections, restitution shall be a condition of work release. The chief of the bureau of community correctional services of the division of adult corrections, shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family circumstances. The bureau chief may modify the plan of payment at any time to reflect the offender's present circumstances. Failure of the offender to comply with the restitution plan of payment, including the community service requirement, if any, shall constitute a violation of a condition of work release and the work release privilege may be revoked.

3. If an offender is to be placed on work release from a facility under control of a county sheriff, restitution shall be a condition of work release. The judicial district department of correctional services shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances. Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, shall constitute a violation of a condition of work release. The judicial district department of correctional services may modify the plan of restitution at any time to reflect the offender's present circumstances.

4. If an offender is to be placed on parole, restitution shall be a condition of parole. The parole office to which the offender will be assigned shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment, and family

circumstances. Failure of the offender to comply with the restitution plan of payment including a community service requirement, if any, shall constitute a violation of a condition of parole. The parole officer may modify the plan of payment any time to reflect the offender's present circumstances. A restitution plan of payment or modified plan of payment, prepared by a parole officer, must meet the approval of the chief of the bureau of community correctional services of the division of adult corrections.

5. The director of the division of adult corrections shall promulgate rules pursuant to chapter 17A concerning the policies and procedures to be used in preparing and implementing restitution plans of payment for offenders who are committed to an institution under the control of the director of the division of adult corrections, for offenders who are to be released on work release from institutions under the control of the director of the division of adult corrections, for offenders who are placed on probation, and for offenders who are released on parole.

Sec. 7. NEW SECTION. PAYMENT PLAN—COPY TO VICTIMS. Each agent, agency, or judicial district department of correctional services preparing a restitution plan of payment or modified restitution plan of payment shall forward, when it is approved by the court if approval is required under section 5 of this Act, or when the plan is completed if court approval under section 5 of this Act is not required, a copy to the clerk of court in the county in which the offender was sentenced. The clerk of court shall forward a copy of the plan of payment or modified plan of payment to the victim or victims.

Sec. 8. NEW SECTION. PETITION FOR HEARING. At any time during the period of probation, parole or incarceration, the offender or the agent, agency or judicial district department of correctional services who prepared the offender's restitution plan, may petition the court and the court shall grant a hearing on any matter related to the plan of restitution or restitution plan of payment. The court at any time prior to the expiration of the offender's sentence, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

Sec. 9. NEW SECTION. CIVIL LIABILITY. This chapter and proceedings under this chapter shall not limit or impair the rights of victims to sue and recover damages from the offender in a civil action. However, any restitution payment by the offender to a victim shall be set off against any judgment in favor of the victim in a civil action arising out of the same facts or event.

Sec. 10. NEW SECTION. COLLECTION OF PAYMENTS—PAYMENT BY CLERK OF COURT. An offender making restitution pursuant to a restitution plan of payment shall make the payment monthly to the clerk of court of the county from which the offender was sentenced, unless the restitution plan of payment provides otherwise.

The clerk of court shall maintain a record of all receipts and disbursements of restitution payments and shall disburse all moneys received to the victims designated in the plan of restitution. If there is more than one victim, disbursements to the victims shall be on the basis of the victim's percentage of the total owed by the offender to all victims.

Court costs, court-appointed attorney's fees, and expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender, shall notify all victims that full restitution has been made, and a copy of the notice shall be sent to the sentencing court. Each agent, agency, or judicial district department of correctional services supervising an offender who is required to perform community service as full or

partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

Sec. 11. Section 906.11, Code 1981, is amended to read as follows:

906.11 ASSIGNMENT TO PAROLE OFFICER. A person released on parole shall be assigned to a parole officer by the chief parole officer. Both the person and his or her parole officer shall be furnished in writing with the conditions of his or her parole including a copy of the plan of restitution and the restitution plan of payment, if any, and the regulations which the person will be required to observe~~, in writing~~. The parole officer shall explain these conditions and regulations to the person, and supervise, assist, and counsel the person during the term of his or her parole.

Sec. 12. Section 907.8, unnumbered paragraph 1, Code 1981, is amended to read as follows:

A person released on probation shall be assigned to a probation officer. Both the person and his or her probation officer shall be furnished with the conditions of the person's probation including a copy of the plan of restitution and the restitution plan of payment, if any, and the regulations which the person will be required to observe, in writing. The probation officer shall explain these conditions and regulations to the person and shall supervise, assist, and counsel the person during the term of his or her probation.

Sec. 13. Section 907.12, Code 1981, is repealed.

Sec. 14. This Act shall take effect July 1 following its enactment and shall apply to persons sentenced after the effective date of this Act.

Approved May 7, 1982

CHAPTER 1163

APPLIANCES EQUIPPED WITH PILOT LIGHT

S.F. 2240

AN ACT repealing the statutes relating to certain appliances equipped with a pilot light.

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

Section 1. Sections 478A.1, 478A.2, 478A.3, 478A.4, 478A.5, and 478A.6, Code 1981, are repealed.

Approved May 6, 1982

CHAPTER 1164

STATE SALES, SERVICES AND USE TAX

S.F. 362

AN ACT relating to the state sales, services and use tax by allowing retailers to provide their own tax exemption certificate, by requiring payments of use taxes to be applied first to accrued penalty and interest and by making corrective changes.

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

Section 1. Section 321.30, subsection 6, Code 1981, is amended to read as follows:

6. That the required ~~sales~~ use tax has not been paid.

Sec. 2. Section 422.47, subsection 4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The department shall issue or the seller may separately provide exemption certificates in ~~such~~ the form ~~as~~ prescribed by the director ~~may require~~ to assist retailers in properly accounting for nontaxable sales of tangible personal property or services to ~~buyers~~ purchasers for purposes of resale or for processing.

Sec. 3. Section 422.47, subsection 4, paragraphs a and c, Code 1981, are amended to read as follows:

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.

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~~ is liable solely for the taxes and shall remit ~~said~~ the taxes directly to the department in accordance with this subsection.

Sec. 4. Section 423.23, Code 1981, is amended to read as follows:

423.23 STATUTES APPLICABLE. The director ~~is hereby charged with the enforcement of the provisions of~~ shall enforce this chapter, and the director and employees of the department shall administer this chapter and the taxes imposed by this chapter in the same manner and subject to all of the provisions of, and all of the powers, duties, authority, and restrictions contained in section 422.25, subsection 4, section 422.30 and sections 422.67 to 422.75 ~~or any amendments which may hereafter be made thereto, all of which sections are by this reference incorporated herein~~.

Approved May 3, 1982

CHAPTER 1165

LAYING OF WATER MAINS

S.F. 2291

AN ACT to make the provisions of Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 69, relating to the laying of water mains retroactive.

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

Section 1. Chapter 589, Code 1981, is amended by adding the following new section:

NEW SECTION. PERMISSION TO LAY WATER MAINS. The provisions of Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 69, relating to the laying of water mains apply to all permits or permissions granted by a county board of supervisors or the state department of transportation and its predecessors before the effective date of that Act and are retroactive to that extent.

Approved April 30, 1982

CHAPTER 1166

AUDITS OF SUBSTANCE ABUSE PROGRAMS

S.F. 2252

AN ACT relating to audits of licensed substance abuse programs conducted by the auditor of state.

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

Section 1. Section 125.55, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 58, section 10, is amended to read as follows:

125.55 AUDITS. All licensed substance abuse programs are subject to annual audit either by the auditor of state or in lieu of the examination by state accountants the substance abuse program may contract with or employ certified public accountants to conduct the audit, in accordance with sections 11.18 and 11.19. The audit format shall be as prescribed by the auditor of state. ~~The notification requirements and the powers granted to the auditor of state in sections 11.18 and 11.19 apply to audits conducted by certified public accountants.~~ The certified public accountant shall submit a copy of the audit to the director. A licensed substance abuse program is also subject to special audits as the director requests. The licensed

substance abuse program or the department shall pay all expenses incurred by the auditor of state in conducting an audit under this section.

Approved April 30, 1982

CHAPTER 1167

MOTOR VEHICLE OPERATION WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

H.F. 2369

AN ACT relating to crimes resulting from the operation of motor vehicles under certain circumstances, including while the operator's drivers license is suspended and while under the influence of an alcoholic beverage or drug or with a certain amount of alcohol in the blood and the provisions for chemical testing, sentencing, penalties and license revocation relating to that offense.

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

Section 1. Section 321.191, unnumbered paragraph 2, Code 1981, is amended to read as follows:

There shall be a fee of twenty dollars for reinstatement of a chauffeur's license or operator's license which is, after notice and opportunity for hearing, suspended or revoked pursuant to sections 321.209~~,~~ and 321.210, except subsection 4 thereof, and ~~321B.7~~ chapter 321B. Such twenty-dollar fee shall be collected only if the person whose license was suspended or revoked was served personally with notice thereof. If the person whose license was suspended or revoked was served notice thereof by ~~restricted~~ certified mail, the reinstatement fee shall be ten dollars.

Sec. 2. Section 321.209, subsection 2, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

2. Operating a motor vehicle in violation of section 321.281 by a person whose driver's license has not been revoked under chapter 321B for the occurrence from which the arrest arose.

Sec. 3. Section 321.212, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Except as provided in section 321.513 the department shall not suspend a license for a period of more than one year, except that a license suspended because of incompetency to drive a motor vehicle shall be suspended until the department receives satisfactory evidence that the former holder is competent to operate a motor vehicle and a refusal to reinstate shall constitute a denial of license within the provisions of section 321.215; upon revoking a license the department shall not grant an application for a new license until the expiration of one year after the revocation, unless another period is specified by law.

Sec. 4. Section 321.218, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~Any~~ A person whose operator's or chauffeur's license or driving privilege, has been denied, canceled, suspended or revoked as provided in this chapter, and who drives any motor vehicle upon the highways of this state while ~~such~~ the license or privilege is denied, canceled, suspended, or revoked, is guilty of a ~~simple~~ serious misdemeanor. The sentence imposed under this section shall not be suspended by the court, notwithstanding ~~the provisions of~~ section 907.3 or any other ~~provision of~~ statute. The department, upon receiving the record of the conviction of ~~any~~ a person under this section upon a charge of driving a motor vehicle while the license of ~~such~~ the person was suspended or revoked, shall, except for licenses suspended under section 321.513, extend the period of suspension or revocation for an additional like period, and the department shall not issue a new license during ~~such~~ the additional period.

Sec. 5. Section 321.281, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 103, section 6, is amended by striking the section and inserting in lieu thereof the following:

321.281 OPERATING WHILE INTOXICATED OR DRUGGED—COPY OF JUDGMENT TO DEPARTMENT—COMMITMENT OF DEFENDANT FOR EVALUATION AND TREATMENT.

1. A person shall not operate a motor vehicle upon the public highways of this state in either of the following conditions:

a. While under the influence of an alcoholic beverage, a narcotic, hypnotic, or other drug, or any combination of such substances.

b. While having thirteen hundredths or more of one percent by weight of alcohol in the blood.

2. A person convicted of a violation of this section, upon conviction or a plea of guilty, is guilty of:

a. A serious misdemeanor for the first offense and shall be imprisoned in the county jail for not less than forty-eight hours, less credit for any time the person was confined in a jail or detention facility following arrest. The court may accommodate the sentence to the work schedule of the defendant.

b. An aggravated misdemeanor for a second offense and shall be imprisoned in the county jail or community-based correctional facility not less than seven days, which minimum term cannot be suspended notwithstanding section 901.5, subsection 3 and section 907.3, subsection 2.

c. A class "D" felony for a third offense and each subsequent offense.

No conviction for, or plea of guilty to, a violation of this section which occurred more than six years prior to the date of the violation charged shall be considered in determining that the violation charged is a second, third or subsequent offense.

3. A person shall not be convicted and sentenced for violations of both paragraphs a and b of subsection 1 if the offenses were committed in the same occurrence.

4. As a condition of a suspended sentence or portion of sentence for a second, third or subsequent offense in violation of this section, the court upon hearing may commit the defendant for inpatient treatment of alcoholism or drug addiction or dependency to any hospital, institution or community correctional facility in Iowa providing such treatment. The time for which the defendant is committed for treatment shall be credited against the defendant's sentence. The court may prescribe the length of time for the evaluation and treatment or it may request that the hospital to which the person is committed immediately report to the court when the person has received maximum benefit from the program of the hospital or institution or has recovered from the person's addiction, dependency, or tendency to chronically abuse alcohol or drugs. A person committed under this section who does not possess sufficient income or estate to make payment of the costs of the treatment in whole or in part shall be considered a state patient and the costs of treatment shall be paid as provided in section 125.44.

5. The clerk of court shall immediately certify to the department a true copy of the judgment sentencing the defendant under this section.

6. If the court defers judgment pursuant to section 907.3 for an offense under this section, the court shall order that the defendant's license to operate a motor vehicle be revoked for a period of not less than thirty days nor more than ninety days, during which time no new license to operate a motor vehicle shall be issued to the defendant. The court shall immediately require the defendant to surrender to it all operator's or chauffer's* licenses held by the defendant which the court shall forward to the department with a copy of the order deferring judgment. A person whose license to operate a motor vehicle is revoked pursuant to this subsection may be issued a temporary restricted driving permit by the department allowing the person to drive to and from the person's home and place of employment and in the person's employment and to attend evaluation, treatment or educational services for alcohol or drug dependency, if the person's license to operate a motor vehicle is not subject to revocation under section 321B.7 for refusal to submit to chemical testing.

7. This section does not apply to a person operating a motor vehicle while under the influence of a narcotic, hypnotic, or other drug if such substances were prescribed for the person and were taken under the prescription and in accordance with the directions of a medical practitioner as defined in section 155.3, subsection 11, if there is no evidence of the consumption of alcohol and the medical practitioner had not directed the person to refrain from operating a motor vehicle.

8. In any prosecution under this section, evidence of the results of analysis of a specimen of the defendant's blood, breath, saliva, or urine is admissible upon proof of a proper foundation. In an action in which a violation of subsection 1, paragraph a of this section is alleged, evidence that there was, at the time, ten hundredths or more of one percent by weight of alcohol in the defendant's blood is presumptive evidence that the defendant was under the influence of an alcoholic beverage.

9. a. Upon a plea or verdict of guilty of a third or subsequent violation of this section, the court in which the plea was entered or the verdict was returned shall order that the defendant's license or permit to operate motor vehicles be revoked by the department and that the defendant shall remain ineligible for a new license or permit for a period of six years. Any license or permit to operate motor vehicles held by the defendant shall be surrendered to the court who shall forward it to the department with a copy of the order for revocation.

b. After two years from the date of the order for revocation, the defendant may apply to the court for restoration of the defendant's eligibility for a license or permit to operate motor vehicles. The application may be granted only if all of the following are shown by the defendant by a preponderance of the evidence:

(1) The defendant has completed an evaluation and, if recommended by the evaluation, a program of treatment for chemical dependency and is recovering, or has substantially recovered, from that dependency on or tendency to abuse alcohol or drugs.

(2) The defendant has not been convicted, since the date of the revocation order, of any subsequent violations of this section or section 123.46, or any comparable city or county ordinance, and the defendant has not, since the date of the revocation order, submitted to a chemical test under chapter 321B that indicated ten hundredths or more of one percent by weight of alcohol in the person's blood or refused to submit to chemical testing under that chapter.

(3) The defendant has abstained from the excessive consumption of alcoholic beverages and the consumption of controlled substances, except at the direction of a licensed physician or pursuant to a valid prescription.

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*According to enrolled Act

(4) The defendant's license or permit is not currently subject to suspension or revocation for any other reason.

c. The court shall forward to the department a record of any application submitted under paragraph b and the results of the court's disposition of the application.

Sec. 6. Section 321.282, Code 1981, is amended to read as follows:

321.282 VIOLATIONS. ~~If any~~ A person ~~who~~ whose license or privilege to operate is revoked or denied because the person has been convicted or has pleaded guilty to ~~driving or operating a motor vehicle upon the public highways of this state while in an intoxicated condition~~ a violation of section 321.281 or is revoked under subsection 6 of that section who is found driving or operating any motor vehicle ~~in violation of the provisions of sections 321.174 and 321.209 the person shall be~~ upon a highway in this state while the license or privilege is revoked or denied is guilty of a ~~simple~~ serious misdemeanor.

Sec. 7. Section 321.283, subsections 2, 3, and 4, Code 1981, are amended to read as follows:

2. COURT ORDER. After ~~the~~ a conviction ~~of a person~~ for, or a plea of guilty of, ~~operating a motor vehicle while under the influence of an alcoholic beverage~~ a violation of section 321.281, the court in addition to its power to commit the defendant for treatment of alcoholism under section 321.281, may in lieu of, or prior to or after the imposition of punishment for a first offense or prior to or after the imposition of punishment for any subsequent offense, order the defendant, at ~~his~~ the defendant's own expense, to enroll in, attend and successfully complete a course for drinking drivers. The court may alternatively or additionally require the defendant to seek evaluation, treatment or rehabilitation services under section 125.33 at the defendant's expense and to furnish evidence of successful completion. A copy of the order shall be forwarded to the department.

3. REFERRED ON CONVICTION. After ~~any~~ a conviction for ~~operating a motor vehicle while under the influence of an alcoholic beverage under~~ a violation of section 321.281, the court may refer the defendant for treatment at a facility as defined in sections 125.1 to 125.43 and designated by the Iowa department of substance abuse. The court may prescribe the length of time for treatment or it may be left to the discretion of the facility to which the defendant was referred. A person referred under this section who ~~is~~ does not ~~possessed of~~ possess sufficient income or estate to enable ~~him or her~~ the person to make payment of the costs of such treatment in whole or in part is a state patient, and costs for treatment shall be paid as provided in section 125.44.

4. LICENSE REVOKED. When the court orders a person to enroll, attend and successfully complete a course for drinking drivers or complete evaluation, treatment or rehabilitation services and the person's drivers license is not revoked or suspended at the time of the order, the court shall also order ~~that the~~ revocation of the person's drivers license ~~shall be for an indefinite period and~~ until the required course or treatment or rehabilitation services is successfully completed and proof of completion has been filed with the department and the provisions of chapter 321A have been complied with. If the person's drivers license is revoked or suspended at the time of the order, that revocation or suspension shall not end prior to the completion and proof of completion of the required course or evaluation, treatment or rehabilitation services.

Sec. 8. Section 321.283, subsection 6, Code 1981, is amended to read as follows:

6. TEMPORARY PERMIT. Any person required to attend ~~a course~~ evaluation, treatment or rehabilitation services by the provisions of this division, who is subject to a drivers license suspension or revocation, may be issued a temporary driving permit by the department restricted to driving to and from ~~his~~ the person's home, place of employment, in ~~his~~ the person's employment and the location of the required ~~course~~ evaluation, treatment or rehabilitation services. Any person who does not receive a temporary driving permit may

after the period of license suspension or revocation ~~under~~ for a violation of section 321.281 have his or her drivers license reissued subject to suspension for failure to comply with the provisions of this division. This section shall not permit the issuance of a temporary driving permit or reissuance of a drivers license where the provisions of chapter 321A have not been complied with.

Successful completion of a course or evaluation, treatment or rehabilitation services required by this division shall not reverse a drivers license suspension or revocation or reduce the length of a suspension or revocation ~~under~~ for a violation of section 321.281; ~~however, the director may reduce the length of a suspension or revocation contingent upon successful completion of a course for drinking drivers~~ or under chapter 321B.

Sec. 9. Section 321.283, subsection 7, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Enrollment in the courses shall not be limited to persons ordered to enroll, attend and successfully complete the course under ~~the provisions of~~ subsection 2, and any person convicted of ~~operating a motor vehicle while under the influence of an alcoholic beverage~~ a violation of section 321.281 who was not ordered to enroll, ~~shall be allowed to~~ in a course may enroll in and attend a course for drinking drivers.

Sec. 10. Section 321.555, subsection 1, paragraph b, Code 1981, is amended to read as follows:

b. ~~Driving~~ Operating a motor vehicle ~~while under the influence of an alcoholic beverage or a controlled substance as defined in section 204.101~~ in violation of section 321.281.

Sec. 11. Section 321A.17, subsection 1, Code 1981, is amended to read as follows:

1. Whenever the director, under any law of this state, suspends or revokes the license of any person upon receiving record of a conviction or a forfeiture of bail or revokes the license of any person pursuant to chapter 321B, the director shall also suspend the registration for all motor vehicles registered in the name of ~~such~~ the person, except that ~~he~~ the director shall not suspend ~~such~~ the registration, unless otherwise required by law, if ~~such~~ the person has previously given or ~~shall~~ immediately ~~give~~ gives and thereafter ~~maintain~~ maintains proof of financial responsibility with respect to all motor vehicles registered by ~~such~~ the person.

Sec. 12. Chapter 321B, Code 1981, is amended by adding the following new section:

NEW SECTION. PRELIMINARY SCREENING TEST. When a peace officer has reasonable grounds to believe that a motor vehicle operator may be violating or has violated section 321.281, or the operator has been involved in a motor vehicle collision resulting in injury or death, the peace officer may request the operator to provide a sample of the operator's breath for a preliminary screening test using a device approved by the commissioner of public safety for that purpose. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request a chemical test authorized in this chapter, but shall not be used in any court action except to prove that a chemical test was properly requested of a person pursuant to this chapter.

Sec. 13. Chapter 321B, Code 1981, is amended by adding the following new section:

NEW SECTION. TEST RESULT REVOCATION. Upon certification by the peace officer that there existed reasonable grounds to believe the person to have been operating a motor vehicle in violation of section 321.281 and that the person submitted to chemical testing and the test results indicate ten hundredths or more of one percent by weight of alcohol in the person's blood, the department shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one hundred twenty days if the person has no revocation within the previous six years under section 321.209, subsection 2, section 321.281 or chapter 321B, two hundred forty days if the person has one previous revocation under those provisions, and one year if the person has two or more revocations under those provisions arising from separate occurrences.

The effective date of the revocation shall be twenty days after the department has mailed notice of revocation to the person by certified mail or, on behalf of the department, a peace officer offering a chemical test or directing the administration of a chemical test may serve immediate notice of intention to revoke and of revocation on a person when the person's test results indicate ten hundredths or more of one percent by weight of alcohol in the blood.

If the peace officer serves that immediate notice, the peace officer shall take the Iowa license or permit of the driver, if any, and issue a temporary license valid only for twenty days. The peace officer shall immediately send the person's driver's license to the department along with an affidavit stating that the test results indicate ten hundredths of one percent or more by weight of alcohol in the person's blood.

The department may, on application, issue a temporary restricted license to a person whose license has been revoked under this section when the person's regular employment includes the operation of a motor vehicle or who cannot perform his or her regular occupation without the use of a motor vehicle, or when the person's use of a motor vehicle is necessary to attend evaluation, treatment or educational services for alcohol or drug dependency, but the person shall not operate a vehicle for pleasure while holding a restricted license. However, this paragraph does not apply to a person whose license is suspended or revoked for another reason.

Sec. 14. Section 321B.1, Code 1981, is amended to read as follows:

321B.1 DECLARATION OF POLICY. The general assembly ~~hereby~~ ~~determines~~ ~~and~~ declares that ~~the~~ ~~provisions~~ ~~of~~ this chapter ~~are~~ is necessary ~~in order to control alcoholic beverages and~~ to aid the enforcement of laws prohibiting operation of a motor vehicle while under the influence of an alcoholic beverage, a narcotic, hypnotic, or other drug or any combination of such substances, or while having a certain amount of alcohol in the blood.

Sec. 15. Section 321B.3, Code 1981, is amended to read as follows:

321B.3 IMPLIED CONSENT TO TEST. Any person who operates a motor vehicle in this state upon a public highway~~,~~ under ~~such~~ circumstances ~~as to~~ which give reasonable grounds to believe the person to have been operating a motor vehicle ~~while under the influence of an alcoholic beverage~~ in violation of section 321.281, ~~shall be~~ is deemed to have given consent to the withdrawal ~~from his body~~ of specimens of ~~his~~ the person's blood, breath, saliva, or urine, and to a chemical test or tests ~~thereof,~~ of the specimens for the purpose of determining the alcoholic content of ~~his~~ the blood, subject to ~~the provisions hereinafter set out~~ this section. The withdrawal of ~~such~~ the body substances~~,~~ and the test or tests ~~thereof,~~ shall be administered at the written request of a peace officer having reasonable grounds to believe the person to have been operating a motor vehicle ~~upon a public highway of this state while under the influence of an alcoholic beverage~~ in violation of section 321.281, and ~~only after the peace officer has placed such person under arrest for the offense of operating a motor vehicle while under the influence of an alcoholic beverage~~ if any of the following conditions exist:

1. A peace officer has lawfully placed the person under arrest for violation of section 321.281.

2. The person has been involved in a motor vehicle accident or collision resulting in personal injury or death.

3. The person has refused to take a preliminary breath screening test provided by this chapter.

4. The preliminary breath screening test was administered and it recorded ten hundredths or more of one percent by weight of alcohol in the blood.

PARAGRAPH DIVIDED. The peace officer shall determine which of the four substances, breath, blood, saliva, or urine, shall be tested. Refusal to submit to a chemical test of urine, saliva or breath ~~shall be~~ is deemed a refusal to submit, and ~~the provisions of~~ section 321B.7

~~shall apply~~ applies. A refusal to submit to a chemical test of blood ~~shall~~ is not ~~be~~ deemed a refusal to submit, but in that case, the peace officer shall then determine which one of the other three substances shall be tested, and shall offer ~~such~~ the test. If ~~such~~ the peace officer fails to provide a test within two hours after ~~such~~ the preliminary screening test is administered or refused or the arrest is made, whichever occurs first, ~~no~~ a test ~~shall be~~ is not required, and there shall be no revocation under ~~the provisions of~~ section 321B.7.

Sec. 16. Chapter 321B, Code 1981, is amended by adding the following new section:

NEW SECTION. TESTS PURSUANT TO WARRANTS.

1. Refusal to consent to a test under section 321B.3 does not prohibit the withdrawal of a specimen for chemical testing pursuant to a search warrant issued in the investigation of a suspected violation of section 707.5 where the following grounds exist:

a. A traffic accident has resulted in a death or personal injury reasonably likely to cause death, and

b. There are reasonable grounds to believe that one or more of the persons whose driving may have been the proximate cause of the accident was violating section 321.281 at the time of the accident.

2. Search warrants may be issued under this section in full compliance with chapter 808 or they may be issued under subsection 3 of this section.

3. Notwithstanding section 808.3, the issuance of a search warrant under this section may be based upon sworn oral testimony communicated by telephone if the magistrate who is asked to issue the warrant is satisfied that the circumstances make it reasonable to dispense with a written affidavit. The following shall then apply:

a. When a caller applies for the issuance of a warrant under this section and the magistrate becomes aware of the purpose of the call, the magistrate shall place under oath the person applying for the warrant.

b. The person applying for the warrant shall prepare a duplicate warrant and read the duplicate warrant, verbatim, to the magistrate who shall enter, verbatim, what is read to the magistrate on a form that will be considered the original warrant. The magistrate may direct that the warrant be modified.

c. The oral application testimony shall set forth facts and information tending to establish the existence of the grounds for the warrant and shall describe with a reasonable degree of specificity the person or persons whose driving is believed to have been the proximate cause of the accident and from whom a specimen is to be withdrawn and the location where the withdrawal of the specimen or specimens is to take place.

d. If a voice recording device is available, the magistrate may record by means of that device all of the call after the magistrate becomes aware of the purpose of the call. Otherwise, the magistrate shall cause a stenographic or longhand memorandum to be made of the oral testimony of the person applying for the warrant.

e. If the magistrate is satisfied from the oral testimony that the grounds for the warrant exist or that there is probable cause to believe that they exist, the magistrate shall order the issuance of the warrant by directing the person applying for the warrant to sign the magistrate's name on the duplicate warrant. The magistrate shall immediately sign the original warrant and enter on its face the exact time when the issuance was ordered.

f. The person who executes the warrant shall enter the time of execution on the face of the duplicate warrant.

g. The magistrate shall cause any record of the call made by means of a voice recording device to be transcribed, shall certify the accuracy of the transcript, and shall file the transcript and the original record with the clerk. If a stenographic or longhand memorandum was made of the oral testimony of the person who applied for the warrant, the magistrate shall file a signed copy with the clerk.

h. The clerk of court shall maintain the original and duplicate warrants along with the record of the telephone call and any transcript or memorandum made of the call in a confidential file until a charge, if any, is filed.

4. Search warrants issued under this section shall authorize and direct peace officers to secure the withdrawal of blood specimens by medical personnel under section 321B.4. Reasonable care shall be exercised to ensure the health and safety of the persons from whom specimens are withdrawn in execution of the warrants. If a person from whom a specimen is to be withdrawn objects to the withdrawal of blood, the person is capable of giving a specimen of breath, and a direct breath testing instrument is readily available, the warrant may be executed by the withdrawal of a specimen of breath for chemical testing.

5. The act of any person knowingly resisting or obstructing the withdrawal of a specimen pursuant to a search warrant issued under this section constitutes a contempt punishable by a fine not exceeding one thousand dollars or imprisonment in a county jail not exceeding one year or by both such fine and imprisonment. Also, if the withdrawal of a specimen is so resisted or obstructed, sections 321B.7 and 321B.11 apply.

6. Nonsubstantive variances between the contents of the original and duplicate warrants shall not cause a warrant issued under subsection 3 of this section to be considered invalid.

7. Specimens obtained pursuant to warrants issued under this section are not subject to disposition under section 808.9 or chapter 809.

8. Subsections 1 through 7 of this section do not apply where a test may be administered under section 321B.5.

9. Medical personnel who use reasonable care and accepted medical practices in withdrawing blood specimens are immune from liability for their actions in complying with requests made of them pursuant to search warrants or pursuant to section 321B.4.

Sec. 17. Section 321B.4, Code 1981, is amended to read as follows:

321B.4 TAKING SAMPLE FOR TEST. Only a licensed physician, ~~or a~~ physician's assistant as defined in section 148C.1, subsection 6, medical technologist or registered nurse ~~designated by a licensed physician as his representative~~, acting at the ~~written~~ request of a peace officer may withdraw ~~such~~ body substances for the purpose of determining the alcoholic or drug content of the person's blood. However, any peace officer, using devices and methods approved by the commissioner of public safety, may take a specimen of a person's breath or urine for the purpose of determining the alcoholic or drug content of the person's blood. Only new, originally factory wrapped, disposable syringes and needles, kept under strictly sanitary and sterile conditions shall be used for drawing blood. ~~Such~~ The person may have an independent chemical test or tests administered in addition to any administered at the direction of a peace officer. The failure or inability of the person to obtain an independent chemical test or tests ~~shall~~ does not preclude the admission in evidence of the results of the test or tests taken at the direction of the peace officer. Upon the request of the person who is tested, the results of the test or tests taken at the direction of the peace officer shall be made available to ~~him~~ the person.

Sec. 18. Section 321B.5, Code 1981, is amended to read as follows:

321B.5 DEAD OR UNCONSCIOUS PERSONS. Any person who is dead, unconscious or who is otherwise in a condition rendering ~~him~~ the person incapable of consent or refusal ~~shall be~~ is deemed not to have withdrawn the consent provided by section 321B.3, and the test may be given; provided that a licensed physician shall certify in advance of such test that such person is dead, unconscious or otherwise in a condition rendering ~~him~~ that person incapable of consent or refusal. ~~In such case such condition shall obviate the requirements of arrest and advice pursuant to section 321B.6.~~

Sec. 19. Section 321B.6, Code 1981, is amended to read as follows:

321B.6 STATEMENT OF OFFICER. A peace officer shall advise any person who is requested to take any chemical test that a refusal to submit to such test will result in revocation of the person's license or privilege to operate a motor vehicle; ~~provided, however, that this requirement shall~~. A peace officer shall advise a person prior to the submission to a chemical test that if the results indicate ten hundredths or more of one percent by weight of alcohol in the blood the department will revoke the person's license or privilege to operate a motor vehicle. The peace officer shall advise the person of the periods of revocation applying for both reasons for revocation. The requirements of this section do not apply in the case of any person referred to in section 321B.5.

Sec. 20. Section 321B.7, Code 1981, is amended to read as follows:

321B.7 REFUSAL TO SUBMIT. If a person ~~under arrest~~ refuses to submit to the chemical testing, ~~no~~ a test shall not be given, but the ~~director~~ department, upon the receipt of a sworn report of the peace officer that ~~he or she~~ the officer had reasonable grounds to believe the ~~arrested~~ person to have been operating a motor vehicle ~~upon a public highway of this state while under the influence of an alcoholic beverage, that he or she had placed such person under arrest for the offense of operating a motor vehicle while under the influence of an alcoholic beverage~~ in violation of section 321.281, that specified conditions existed for chemical testing pursuant to section 321B.3, and that the person had refused to submit to the chemical testing, shall revoke ~~his or her~~ the person's license or permit to drive and any nonresident operating privilege for a period of ~~not less than~~ one hundred ~~twenty~~ eighty days ~~nor more than one year~~ if the person has no previous revocation under section 321.209, subsection 2, section 321.281, or chapter 321B; one year if the person has one previous revocation under those provisions; and five hundred forty days if the person has two or more previous revocations under those provisions; or if the person is a resident without a license or permit to operate a motor vehicle in this state, the ~~director~~ department shall deny to the person the issuance of a license or permit for the same period a license or permit would be revoked ~~within one year from the date of the alleged violation~~, subject to review as ~~hereinafter~~ provided in this chapter. The effective date of ~~any such~~ revocation shall be twenty days after the ~~director~~ department has mailed notice of ~~such~~ revocation to ~~such~~ the person by ~~registered or~~ certified mail or, on behalf of the department, a peace officer offering or directing the administration of a chemical test may serve immediate notice of intention to revoke and of revocation on a person who refuses to permit chemical testing. If the peace officer serves that immediate notice, the peace officer shall take the Iowa license or permit of the driver, if any, and issue a temporary license effective for only twenty days. The peace officer shall immediately send the person's license to the department along with an affidavit indicating the person's refusal to submit to chemical testing.

Sec. 21. Section 321B.8, Code 1981, is amended to read as follows:

321B.8 HEARING. Upon the written request of a person whose privilege to drive has been revoked or denied, or has been issued a twenty-day license pursuant to section 13 of this Act or section 321B.7, the ~~director~~ department shall grant the person an opportunity to be heard within twenty days after the receipt of the request, but the request must be made within ~~thirty~~ ten days of the effective date of revocation or denial of driving privileges or the issuance of a temporary permit. The hearing shall be before the ~~director,~~ department in the county ~~wherein~~ where the alleged events occurred ~~for which the person was arrested~~, unless the director and the person agree that the hearing may be held in some other county. The hearing may be recorded and its scope shall cover the issues of whether a peace officer had reasonable grounds to believe the person to have been operating a motor vehicle ~~upon a public highway of this state while under the influence of an alcoholic beverage, whether the person was placed under arrest and~~ in violation of section 321.281, whether ~~he~~ the person refused to

submit to the test or tests, the test results if a person consented to a test and whether the person should be issued a temporary restricted license. The ~~director~~ department shall order that the revocation or denial be either rescinded or sustained.

Sec. 22. Section 321B.9, Code 1981, is amended to read as follows:

321B.9 JUDICIAL REVIEW. Judicial review of ~~the actions~~ an action of the ~~director~~ department may be sought in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said Act, ~~petitions~~ a petition for judicial review may be filed in the district court in the county wherein the alleged events occurred for which the licensee was arrested or in the county in which the administrative hearing was held.

Sec. 23. Section 321B.10, Code 1981, is amended to read as follows:

321B.10 EVIDENCE IN ANY ACTION. Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while operating a motor vehicle ~~upon a public highway of this state while under the influence of an alcoholic beverage~~ in violation of section 321.281, evidence of the amount of alcohol or drugs in the person's blood at the time of the act alleged as shown by a chemical analysis of ~~his~~ the person's blood, breath, saliva or urine is admissible.

Sec. 24. Section 321B.11, Code 1981, is amended to read as follows:

321B.11 PROOF OF REFUSAL ADMISSIBLE. If the person ~~under arrest~~ refuses to submit to the test or tests, proof of refusal ~~shall be~~ is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating a motor vehicle ~~upon a public highway of this state while under the influence of an alcoholic beverage~~ in violation of section 321.281.

Sec. 25. Section 321B.15, Code 1981, is amended to read as follows:

321B.15 DRIVING WHILE LICENSE DENIED OR REVOKED. Any person whose license~~,~~ or driving privilege~~,~~ has been denied or revoked as provided in this chapter~~,~~ and who drives any motor vehicle upon the highways of this state while ~~such~~ the license or privilege is denied or revoked~~,~~ is guilty of a ~~simple~~ serious misdemeanor ~~and upon conviction shall be punished as provided for simple misdemeanors in section 321.482~~. The department, upon receiving the record of the conviction of any person under this section upon a charge of driving a motor vehicle while the license of ~~such~~ the person was revoked or denied, shall extend the period of revocation or denial for an additional like period, and the department shall not issue a new license during ~~such~~ the additional period.

Sec. 26. Section 602.60, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Judicial magistrates ~~shall~~ have jurisdiction of simple misdemeanors, including traffic and ordinance violations, preliminary hearings, search warrant proceedings, and small claims. They ~~shall~~ also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12 and the power to hear complaints, or preliminary informations, issue warrants, order arrests, make commitments and take bail. They also have jurisdiction of first offense violations of section 321.281 but only to the extent that they may approve trial informations, conduct arraignments, accept guilty pleas if the defendant is represented by legal counsel, sentence those pleading guilty and make appropriate orders authorized by section 321.283. They ~~shall have power to~~ may act any place within the judicial district as directed, and venue shall be the same as in other district court proceedings.

Sec. 27. Section 602.62, Code 1981, 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, 820 and 821 and in R.Cr.P. 2, 5, 7, 8 and 32 to 46. The civil procedure before judicial magistrates shall be as provided in chapters 631 and 648.

Sec. 28. Section 907.3, subsection 1, unnumbered paragraph 2, Code 1981, is amended by adding the following new lettered subparagraph:

NEW LETTERED SUBPARAGRAPH. The offense is a violation of section 321.281 and, within the previous six years, the person has been convicted of a violation of that section or the person's driver's license has been revoked pursuant to that section or chapter 321B.

Approved May 11, 1982

CHAPTER 1168

DONATIONS OF PERISHABLE FOODS

H.F. 2340

AN ACT to limit the criminal or civil liability of donors of perishable food to charitable or nonprofit organizations and the liability of the organizations.

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

Section 1. Chapter 122, Code 1981, is amended by adding the following new section:

NEW SECTION. DONATIONS OF PERISHABLE FOOD—DONOR NOT LIABLE—PENALTY.

1. As used in this section unless the context otherwise requires:

a. "Perishable food" means food which may spoil or otherwise become unfit for human consumption because of its nature or type of physical condition. This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated, or frozen.

b. "Canned foods" means canned foods that have been hermetically sealed or commercially processed and prepared for human consumption.

c. "Charitable or nonprofit organization" means an organization which is exempt from federal or state income taxation, except that the term does not include organizations which sell or offer to sell donated items of food. The assessment of a nominal fee or request for a donation in connection with the distribution of food by the charitable or nonprofit organization is not a sale.

d. "Gleaner" means a person who harvests, for free distribution, an agriculture crop that has been donated by the owner.

2. A gleaner or person who, in good faith, donates food to a charitable or nonprofit organization for ultimate free distribution to needy individuals is not subject to criminal or civil liability arising from the condition of the food if the donor reasonably inspects the food at the time of the donation and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a donor or gleaner if damages result from the negligence, recklessness, or intentional misconduct of the donor, or if the donor or gleaner has, or should have had, actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

3. A bona fide charitable or nonprofit organization which receives, in good faith, donated food for ultimate distribution to needy individuals either for free or for a nominal fee is not subject to criminal or civil liability arising from the condition of the food, if the charitable or nonprofit organization reasonably inspects the food at the time of donation and at the time of distribution and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a charitable or nonprofit organization if damages result from the negligence, recklessness, or intentional misconduct of the charitable or nonprofit organization or if the charitable or nonprofit organization has or should have had actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

4. The immunity provided by this section is applicable to the good faith donation of canned or perishable food or farm products not readily marketable due to appearance, freshness, grade, surplus or other considerations, but does not apply to canned goods that are defective or cannot be otherwise offered for sale to members of the general public. This does not restrict the authority of a lawful agency to otherwise regulate or ban the use of such food for human consumption. Charitable or nonprofit organizations which regularly accept donated food for distribution pursuant to this section shall request the appropriate local health authorities to inspect the food at regular intervals.

5. A person, including an employee or volunteer for a charitable or nonprofit organization, who sells, or offers to sell, for profit, food that the person knows to be donated pursuant to this section is guilty of a simple misdemeanor. For purposes of this subsection, the assessment of a nominal fee or request for a donation by the charitable or nonprofit organization is not a sale.

Approved May 10, 1982

CHAPTER 1169

EXAMINATION AND APPOINTMENT OF DEPUTY ASSESSORS

S.F. 2186

AN ACT relating to the examination and appointment of deputy assessors.

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

Section 1. Section 441.10, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Immediately after the appointment of the assessor, and at other times as the conference board directs, one or more deputy assessors may be appointed by the assessor. ~~Appointments shall be made only from the list of eligible candidates provided by the director of revenue. The list of eligible candidates shall contain only the names of those persons who achieve a score of seventy percent or greater on the examination administered by the director of revenue~~ Each appointment shall be made from either the list of eligible candidates provided by the director of revenue, which shall contain only the names of those persons who achieve a score of seventy percent or greater on the examination administered by the director of revenue, or the list of candidates eligible for appointment as city or county assessor.

Examinations for the position of deputy assessor shall be conducted in the same manner as examinations for the position of city or county assessor. The applicable provisions of section 441.5 regarding the register of names shall also apply to the list of eligible candidates established under the provisions of this section.

Approved April 30, 1982

CHAPTER 1170

ETHANOL BLENDED FUELS

S.F. 2091

AN ACT relating to motor vehicle fuel, including provisions relating to ethanol blended motor vehicle fuel, and increasing the rate of the excise tax on gasohol, effective upon publication.

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

Section 1. Section 214A.2, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Gasoline shall not contain a mixture of more than thirteen percent ethanol.

Sec. 2. Chapter 214A, Code 1981, is amended by adding the following new section:

NEW SECTION. Any retail dealer who sells or holds for sale motor vehicle fuel containing ethanol shall conspicuously post upon any container or pump from which the motor fuel is being sold, a two inch by six inch notice with letters at least one-half inch high stating "ethanol blend".

Sec. 3. Section 324.3, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, Second Extraordinary 1981 Session, chapter 2, section 7, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of thirteen cents per gallon beginning September 1, 1981 is 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 grown in the United States for the period beginning July 1, 1978 and ending June 30, ~~1983~~ 1986 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 the distributor in this state, within the meaning of the word "received" as defined in this division, less the deductions authorized. Thereafter, except as otherwise provided, the per gallon amount of the tax shall be added to the selling price of every gallon of such motor fuel sold in this state and collected from the purchaser so that the ultimate consumer bears the burden of the tax; provided that tax shall not be imposed or collected under this division with respect to the following:

Sec. 4. Section 324.3, unnumbered paragraph 3, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, Second Extraordinary 1981 Session, chapter 2, section 9, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of ~~five cents per gallon for the period beginning May 1, 1981 and ending August 31, 1981 and an excise tax of~~ six cents per gallon for the period beginning September 1, 1981 and ending ~~June 30, 1983~~ on the last day of the month in which this Act becomes effective, an excise tax of eight cents per gallon for the period beginning on the first day of the month following the month in which this Act becomes effective and ending June 30, 1983, an excise tax of ten cents per gallon for the period beginning July 1, 1983 and ending June 30, 1984, an excise tax of eleven cents per gallon for the period beginning July 1, 1984 and ending June 30, 1985, an excise tax of twelve cents per gallon beginning July 1, 1985 and ending June 30, 1986, is imposed upon the use of gasohol used for any purpose except as otherwise provided in this division.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in The Hudson Herald, a newspaper published in Hudson, Iowa, and in the Bremer County Independent and Waverly Democrat, a newspaper published in Waverly, Iowa.

Approved April 24, 1982

I hereby certify that the foregoing Act, Senate File 2091 was published in The Hudson Herald, Hudson, Iowa on April 28, 1982 and in the Bremer County Independent, Waverly, Iowa on April 27, 1982 and in The Waverly Democrat, Waverly, Iowa, on April 29, 1982.
MARY JANE ODELL, *Secretary of State*

CHAPTER 1171

CREDIT UNIONS
S.F. 256

AN ACT relating to the powers of credit unions as these relate to amendment of bylaws, reciprocity, amount to be loaned to a member, merger, and gifts to minors.

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

Section 1. Section 533.2, Code 1981, 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~~ a meeting, ~~which~~ if that number ~~must constitute~~ constitutes a quorum ~~provided~~ and if the proposed amendment was contained in the notice of the meeting. ~~Any and all such~~ Bylaws may also be amended by a vote of a majority of the members of the board, or by a majority vote of members voting by mailed ballot according to procedures specified by rule of the administrator requiring at least twenty days notice to all members, mailed ballots ensuring the confidentiality of voters, announcement to members of the results of the vote, and preservation of the ballots for a reasonable period of time. All amendments must be approved by the administrator before they become effective.

Sec. 2. Section 533.16, subsection 2, Code 1981, is amended to read as follows:

2. A credit union shall not lend in the aggregate ~~to any one~~ a member more than one hundred dollars or ten percent of its ~~capital~~ member savings, whichever is greater.

Sec. 3. Section 533.30, subsection 1, Code 1981, is amended to read as follows:

1. A credit union may 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,~~ is approved by the administrator, and is approved by a majority of the members of each credit union voting on the question of merger. All eligible members of each credit union shall be entitled to vote either by mailed ballot or at a meeting called for the purpose of voting on the merger. The credit union administrator shall enact by rule the procedure for holding elections which shall include not less than 20 days notice to all members, mailed ballot ensuring the confidentiality of voter, announcement to members of the vote, and preservation of ballots for a reasonable period of time.

Sec. 4. Section 533.30, subsection 2, paragraph d, Code 1981, is amended to read as follows:

d. The vote by which the ~~plan~~ merger was approved by the members.

Sec. 5. Section 533.30, subsection 4, Code 1981, is amended to read as follows:

4. Upon return of the certificates from the administrator, all property, property rights, and members' interest of the merged credit union ~~shall~~ vest in the surviving credit union without the legal need for deeds, endorsements or other instruments of transfer, and all debts, obligations and liabilities of the merged credit union ~~shall be~~ are 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 according to the plan. Credit union membership in the surviving credit union shall be available to persons within the field of membership of the merged credit union.

Sec. 6. Section 565A.1, subsection 12, Code 1981, is amended to read as follows:

12. A "security" ~~shall include~~ includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest in an oil, gas, or mining lease, collateral trust certificate, preorganization certificate, preorganization subscription, any transferable share, investment contract, or beneficial interest in title to property, interest in or under a profit-sharing or participating agreement or scheme, or shares invested in savings and loan associations, or invested in a credit union account, or any other instrument commonly known as a security. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

Sec. 7. Section 565A.4, subsection 7, Code 1981, is amended to read as follows:

7. The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for ..... under the Iowa Uniform Gifts to Minors
(Name of minor)
Act". The custodian shall hold all money which is custodial property in an account with a broker or in a bank or credit union or in share accounts in savings and loan associations in the name of the custodian, followed, in substance, by the words: "as custodian for .....
(Name of minor)
under the Iowa Uniform Gifts to Minors Act". The custodian shall keep all other custodial property separate and distinct from ~~his~~ the custodian's own property in a manner to identify it clearly as custodial property.

Approved May 11, 1982

CHAPTER 1172

STATE SERVICE TAX EXEMPTION

H.F. 2396

AN ACT relating to the tax status of services rendered or furnished by private employment agencies under the state sales, services, and use tax.

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

Section 1. Section 422.43, unnumbered paragraph 9, Code 1981, is amended to read as follows:

The following enumerated services ~~shall be~~ are 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 facilities; pipe fitting and plumbing; wood preparation; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; printing and binding; sewing and stitching; shoe repair and shoeshine; storage warehousing of raw agricultural products; telephone answering service; test laboratories, except tests on humans; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons; vulcanizing, recapping, and retreading; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl and vegetables; wrecking service; wrecker and towing.

Approved May 6, 1982

CHAPTER 1173

IOWA SMALL BUSINESS LOAN PROGRAM

H.F. 2464

AN ACT relating to the Iowa small business loan program.

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

Section 1. Section 220.1, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Cost" as applied to Iowa small business loan program projects means the cost of acquisition, construction, or both including the cost of acquisition of all land, rights-of-way, property rights, easements, franchise rights, and interests required for acquisition, construction, or both. It also means the cost of demolishing or removing structures on acquired land, the cost of access roads to private property, including the cost of land or easements, and the cost of all machinery, furnishings, and equipment, financing charges, and interest prior to and during construction and for no more than eighteen months after completion of construction. Cost also means the cost of engineering, legal expenses, plans, specifications, surveys, estimates of cost and revenues, as well as other expenses incidental to determining the feasibility or practicability of acquiring or constructing a project. It also means other expenses incidental to the acquisition or construction of the project, the financing of the acquisition or construction, including the amount authorized in the resolution of the authority providing for the issuance of bonds, to be paid into any special funds from the proceeds of the bonds, and the financing of the placing of a project in operation.

NEW SUBSECTION. "Project" means real or personal property connected with a facility to be acquired, constructed, improved, or equipped, with the aid of the Iowa small business loan program as provided in this Act.

NEW SUBSECTION. "Iowa small business loan program" or "loan program" means the program for lending moneys to small business established under this Act.

NEW SUBSECTION. "Small business" means a business entity organized for profit, including but not limited to an individual, partnership, corporation, joint venture, association or cooperative, to which the following apply:

a. It is not an affiliate or subsidiary of a business dominant in its field of operation.

b. It has either twenty or fewer full-time equivalent positions or not more than the equivalent of one million dollars in annual gross revenues in the preceding fiscal year.

c. It does not involve the operation of a farm and does not involve the practice of a profession.

For purposes of this definition "dominant in its field of operation" means having more than twenty full-time equivalent positions and more than one million dollars in annual gross revenues, and "affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least twenty percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.

Sec. 2. Section 220.1, subsection 14, Code 1981, is amended to read as follows:

14. "Mortgage lender" means any bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any governmental

agency, or any other financial institution authorized to make mortgage loans in this state and includes a financial institution as defined in section 496B.2, subsection 2, which lends moneys for industrial or business purposes.

Sec. 3. Section 220.26, subsection 1, Code 1981, 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 five hundred million dollars plus fifty million dollars for property improvement loans to finance solar and other renewable energy systems in housing as authorized by section 220.37. Fifty million dollars of the total principal amount of bonds and notes may be issued pursuant to the small business loan program established under section 5 of this Act. 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. 4. Section 5 of this Act is enacted as a new division of chapter 220.

Sec. 5. Chapter 220, Code 1981, is amended by adding the following new sections:

NEW SECTION. LEGISLATIVE FINDINGS—PURPOSES—PUBLIC POLICY.

1. The general assembly finds and declares as follows:

a. A viable small business community is essential to the continuing welfare of Iowans who depend on small business for employment.

b. Iowa small business must continue to expand and develop if they are to remain competitive in state and local markets.

c. Small business expansion and development is dependent upon the availability of financing for expansion and development at interest rates which small businesses may reasonably pay.

d. Private financing for small businesses at low interest rates is unavailable to assist small business expansion and development. The Iowa small business loan program is necessary to encourage the investment of private capital in small business expansion and development through the use of public financing as provided in this Act.

2. The purposes of the small business loan program are:

a. To promote the business prosperity and economic welfare of Iowa and Iowans.

b. To assist, through loans, investments, and other transactions, the location of new small business and industry in the state.

c. To assist through loans, investments, and other transactions, existing small business and industry in the state.

d. To provide employment opportunities and thereby improve the standard of living of Iowans.

e. To promote industrial, commercial, and recreational development in this state.

3. All of the purposes stated in this section are public purposes and uses for which public moneys provided by the sale of revenue bonds may be used.

4. It is the public policy of the state through the establishment of the small business loan program to promote the economic welfare of Iowans and to improve employment opportunities for Iowans. To advance that public policy, the authority may make loans to borrowers for both the acquisition and the construction of projects and may issue obligations of this state payable solely from bond proceeds, to pay the cost of the projects.

NEW SECTION. SMALL BUSINESS LOAN PROGRAM.

1. The authority shall initiate a program to assist the development and expansion of small business in Iowa. The authority may issue bonds and notes the proceeds of which shall be used

to make program loans. The bonds and notes are a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to section 220.26, subsection 1. The principal amount of bonds and notes issued pursuant to the loan program shall not exceed fifty million dollars. Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

2. The authority may contract with the Iowa business development credit corporation or any other corporation organized under chapter 496B for the provision by the corporation of lending and other administrative services relative to the loan program to the authority.

NEW SECTION. SMALL BUSINESS LOAN PROGRAM—SPECIFIC POWERS. In assisting Iowa small businesses through the loan program, the authority may do any of the following:

1. Make loans, secured and unsecured, for both the acquisition and the construction of projects on terms the authority determines. The authority may take any action which is reasonable and lawful to protect its security and to avoid losses from its loans. Before making a loan, the authority shall find that the proposed project shall result in one or more of the following:

a. The creation of jobs in Iowa.

b. Increased revenues for the borrower from a more modern or expanded facility.

c. Providing a service facility needed in the community where the project will be located.

2. Acquire, hold, and mortgage personal property and real estate and interests in real estate to be used as a project.

3. Purchase, construct, improve, furnish, equip, lease, option, sell, exchange, or otherwise dispose of projects under the terms the authority determines. However, in the lease, sale, or loan agreement relating to a project, the authority shall provide for adequate maintenance of the project.

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on a project, revenues, or reserve or other funds established in connection with obligations, or with respect to a lease, sale, or loan relating to a project, or a guaranty or insurance agreement relating to a project, or an interest, secured or unsecured, of the authority in a project or part of a project.

5. Provide that the interest on obligations may vary in accordance with a base or formula authorized by the authority.

6. Contract for the acquisition, construction, or both of a project or part of a project and for the leasing, subleasing, sale, or other disposition of a project in a manner determined by the authority.

7. Cooperate with the Iowa development commission and use its facilities to assist and encourage organizations in Iowa communities in the promotion and development of small business prosperity in those communities.

NEW SECTION. SMALL BUSINESS LOAN CRITERIA. In determining whether a small business is eligible for a loan from the small business loan program, the authority shall consider the following criteria:

1. The applicant shall be of good character as determined by rule which shall be adopted by the authority.

2. The applicant shall show evidence that the applicant is able to operate the business successfully.

3. The applicant shall have enough capital in the business so that with assistance from the loan program, the applicant will be able to operate the business on a financially sound basis.

4. The loan shall be so secured or of such sound value as to reasonably assure repayment.

5. The business' past earnings record and future prospects shall indicate an ability to repay the loan out of income from the business.

6. Whether the granting of the loan will increase employment or have other favorable effects upon the economic life of the community where the business is located.

NEW SECTION. LOAN AGREEMENT WITH SPONSORS.

1. The authority may enter into a loan agreement with a project sponsor to finance in whole or in part the acquisition of a project by construction or purchase. The repayment obligation of the project sponsor may be unsecured, secured by a mortgage or security agreement, or secured by other security as the authority deems advisable, and may be evidenced by one or more notes of the project sponsor. The loan agreement may contain terms and conditions the authority deems advisable.

2. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the project sponsor.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the agreement or instrument, the payment or performance may be enforced in accordance with the provisions contained in the agreement or instrument.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

3. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest shall be limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the project sponsor, and that the principal and interest does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 220.28, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

Sec. 6. Chapter 220, Code 1981, is amended by adding the following new section:

NEW SECTION. APPLICATION OF FUNDS FROM SALES OF OBLIGATIONS. All moneys received by or on behalf of the authority, whether as proceeds from the sale of obligations or as revenues, are trust funds to be held and applied solely for the purposes specified in the appropriation, bond resolution, or other document authorizing receipt of the moneys by the authority. A person with which the moneys are deposited shall act as trustee of the

moneys and shall hold and apply the moneys for the purposes specified in this chapter subject to limitations specified in this chapter and in the bond resolution authorizing the issuance of the obligations.

Approved May 19, 1982

CHAPTER 1174

BENEFITED LAW ENFORCEMENT DISTRICT

H.F. 858

AN ACT relating to the establishment, operation, and dissolution of a benefited law enforcement district, and authorizing a tax levy.

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. "District" means a benefited law enforcement district.
2. "Board" means the board of supervisors of a county.
3. "Trustee" means a trustee of a district.

Sec. 2. NEW SECTION. PETITION FOR PUBLIC HEARING.

1. The board shall, on the petition of twenty-five percent of the resident property owners in a proposed district if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed district, hold a public hearing concerning the establishment of a proposed district. The petition shall include a statement containing the following information:

a. The need for law enforcement service.

b. The district to be served.

c. The approximate number of families in the district.

d. The proposed personnel, equipment, and facilities to provide the law enforcement service.

2. The board of supervisors may require a bond of the petitioners conditioned for the payment of all costs and expenses incurred in the proceedings in case the district is not established.

Sec. 3. NEW SECTION. LIMITATION ON AREA. A district may include all or parts of the unincorporated areas of one township and any unincorporated areas of adjoining townships or parts of adjoining townships, but shall not include property assessed as agricultural land, centrally assessed property, or manufacturing personal and real property. Except for property assessed as agricultural land, the owners of centrally assessed property or manufacturing property shall have the option to be included in the district.

Sec. 4. NEW SECTION. TIME OF HEARING. The public hearing required in section 2 of this Act shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication in two successive issues of any paper of general circulation

within the district. The last publication shall be not less than one week before the proposed hearing.

Sec. 5. NEW SECTION. ACTION BY BOARD. After, and within ten days of, the hearing, the board shall either establish the district by resolution or disallow the petition.

Sec. 6. NEW SECTION. ENGINEER.

1. When the board establishes a district, the board shall appoint a competent disinterested civil engineer, who shall prepare a preliminary plat showing:

a. The proper design in general outline of the district.

b. The lots and parcels of land within the proposed district as they appear on the county auditor's plat books with the names of the owners.

c. The assessed valuation of the lots and parcels.

2. The compensation of the engineer on the preliminary investigation shall be determined by the board. The engineer shall file a report with the county auditor within thirty days of appointment. The board may extend the time upon good cause shown.

Sec. 7. NEW SECTION. HEARING ON ENGINEER'S REPORT. After the engineer's report is filed, the board shall give notice as provided in section 4 of this Act, of a public hearing to be held concerning the engineer's preliminary plat. After, and within ten days of, the hearing, the board shall approve or disapprove the preliminary plat. If the preliminary plat is disapproved, the board shall make changes in the boundaries as it deems necessary for board approval of the preliminary plat.

Sec. 8. NEW SECTION. ELECTION ON PROPOSED LEVY. When a preliminary plat has been approved by the board, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax of not more than twenty-seven cents per thousand dollars of assessed value on all the taxable property within the district and to choose candidates for the offices of trustees of the district. Notice of the election, including the time and place of holding the election, shall be given as provided in section 4 of this Act. The vote shall be by ballot which shall state clearly the proposition to be voted upon and any qualified elector residing within the district at the time of the election may vote. It is not mandatory for the county commissioner of elections to conduct elections held pursuant to this Act, but the elections shall be conducted in accordance with chapter 49 where not in conflict with this Act. Judges shall be appointed to serve without pay by the board from among the qualified electors of the district to be in charge of the election. The proposition is approved if sixty percent of those voting on the proposition vote in favor of it.

Sec. 9. NEW SECTION. TRUSTEES. At the election, the names of up to three candidates for trustee shall be written in by the voters on blank ballots without formal nomination and the board shall appoint three from among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees and their successors shall give bond in the amount required by the board, the premium of which shall be paid by the district. Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the board. The term of succeeding trustees shall be three years.

Sec. 10. NEW SECTION. TRUSTEES' POWERS. The trustees may provide law enforcement service and facilities and may certify for levy an annual tax not to exceed twenty-seven cents per thousand dollars of assessed value for the purpose of exercising the powers granted in this Act. This levy is optional with the trustees, but the levy shall not be made unless first approved by the voters as provided in section 8 of this Act. The trustees may purchase material, employ peace officers and other personnel, and may perform all other acts necessary to properly maintain and operate the district. The trustees are allowed necessary expenses in the discharge of their duties, but they shall not receive a salary.

Sec. 11. NEW SECTION. BONDS IN ANTICIPATION OF REVENUE. A district may anticipate the collection of taxes by the levy authorized in this Act, and to carry out the purposes of this Act may issue bonds payable in not more than ten equal installments with the rate of interest not exceeding that permitted by chapter 74A. An indebtedness shall not be incurred under this Act until authorized by an election. The election shall be held and notice given in the same manner as provided in section 8 of this Act, and the same sixty percent vote shall be necessary to authorize indebtedness. Both propositions may be submitted to the voters at the same election.

Sec. 12. NEW SECTION. DISSOLUTION OF DISTRICT. Upon petition of thirty-five percent of the resident eligible electors, the board may dissolve a district and dispose of any remaining property, the proceeds of which shall first be applied against outstanding obligations and any balance shall be applied to tax credit of property owners of the district. The board shall continue to levy a tax after dissolution of a district, of not to exceed twenty-seven cents per thousand dollars of assessed value on all the taxable property of the district, until all outstanding obligations of the district are paid.

Sec. 13. NEW SECTION. INCORPORATION OF DISTRICT LAND. If part of a district is incorporated by a city and there are outstanding indebtedness obligations against the district, the city shall pay the outstanding obligations against the part of the district which is incorporated by the city.

Sec. 14. NEW SECTION. ADDING PROPERTY TO DISTRICT. The owner of any property in an unincorporated area contiguous to the boundaries of an established district may petition the board to be included in the district. Upon receipt of the petition, the board shall submit the request to a competent disinterested civil engineer to investigate the feasibility of adding the additional territory and to make a report to the board. If the board agrees that the property should be added to the district, the tax levy for the next year shall be applied to the property and on the first day of the next fiscal year the property shall become a part of the district. If the district lies in more than one county the joint action of the boards involved is required to add additional territory.

Sec. 15. NEW SECTION. DETERMINATION OF FEE.

1. The owner of any property joining an established district shall pay to the trustees of the district an initial fee to be computed as follows:

a. The trustees shall first determine fair market value of all property and improvements owned by the district, less any indebtedness.

b. The board shall then determine the assessed value of all property in the district which is not assessed as agricultural land. This shall be divided into the value determined in paragraph a.

c. The board shall determine the assessed value of the property of each landowner joining the established district which is not assessed as agricultural land.

d. The result obtained in paragraph b shall be multiplied by the result obtained in paragraph c. The result shall be the initial fee to be charged each landowner.

2. The initial fees paid to the trustees shall be used to help defray the cost and maintenance of the district's law enforcement service.

Approved May 3, 1982

CHAPTER 1175

PROPERTY TAX FILING EXTENSION

H.F. 2424

AN ACT to allow certain nonprofit corporations owning property in this state an extension of time to file for exemption from property taxes for certain tax years.

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

Section 1. A domestic corporation not for pecuniary profit organized under the provisions of chapter 504 which qualifies as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1954, which provides economic education programs for secondary school students and which owns property in a county whose population exceeds one hundred fifty thousand but does not exceed two hundred thousand persons by the last federal census shall, notwithstanding any other provision of law, have until thirty days following the effective date of this Act to file with the appropriate assessor a claim for property tax exemption under section 427.1, subsection 9 for the 1978 and 1979 assessment years.

Sec. 2. Upon the receipt of the claim for a property tax exemption filed for the 1978 and 1979 assessment years under section 1 of this Act, the assessor shall grant the exemption for either or both years if the property would have been exempt under section 427.1, subsection 9 for the assessment year notwithstanding the failure to have filed the claim for exemption within the time period required by law.

Sec. 3. If property taxes have been paid for the tax year beginning in the assessment year for which an exemption is granted under section 2 of this Act, the claim for an exemption for the assessment year shall constitute a claim for refund of the property taxes paid for the tax year and the county treasurer shall refund to the taxpayer the amount of property taxes paid for the tax year and assess against all taxing districts within the county their proportionate amount of the refund.

Approved May 6, 1982

CHAPTER 1176

TAX REFUND OR CREDIT ON MOTOR FUEL USED TO PRODUCE DENATURED ALCOHOL

H.F. 2395

AN ACT providing a refund or income tax credit of excise tax on motor fuel used to produce denatured alcohol within the state.

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

Section 1. Section 324.17, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Any person other than a distributor, dealer or user licensed under this chapter who ~~shall use~~ uses motor fuel or special fuel for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary gas engines, aircraft, for producing denatured alcohol within the state, for cleaning or dyeing or for any purpose other than in watercraft or for propelling motor vehicles operated or intended to be operated upon the public highways and ~~having~~ who has paid the motor fuel or special fuel tax on the fuel either directly to the department of revenue or by having the tax added to the price of the fuel, and who has a refund permit ~~shall~~, upon presentation to and approval by the department of revenue of a claim for refund, shall be reimbursed and repaid the amount of the tax which the claimant has paid on the gallonage so used, except that the amount of any refund payable under this division may be applied by the department of revenue against any tax liability outstanding on the books of the department against the claimant. Every claim ~~shall be~~ is subject to the following conditions:

Sec. 2. Section 422.110, subsection 1, Code 1981, is amended to read as follows:

1. Motor fuel as defined in section 324.2, subsection 1, used for the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck-mounted feed grinders, stationary engines, aircraft, for producing denatured alcohol within the state, for cleaning or dyeing, or for any purpose other than in watercraft or in motor vehicles operated or intended to be operated upon the public highways.

Approved May 6, 1982

CHAPTER 1177

WILDERNESS CAMPSITES

H.F. 2360

AN ACT to exempt wilderness campsites from the requirements of the department of health to furnish water, garbage, and sewage disposal facilities.

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

Section 1. Chapter 135D, Code 1981, is amended by adding the following new section:

NEW SECTION. WILDERNESS CAMPSITES. The rules issued under this chapter which require the providing of water supply, sewage disposal, and garbage disposal to each lot of a mobile home park do not apply if the park is a recreational mobile home park which features a primitive setting and does not offer any other utility service to each lot.

Approved May 7, 1982

CHAPTER 1178

BONDS PAYABLE FROM HOTEL AND MOTEL TAX

H.F. 2478

AN ACT relating to the issuance of bonds payable from the hotel and motel tax.

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

Section 1. Section 422A.2, subsection 4, paragraph f, Code 1981, is amended to read as follows:

f. Bonds shall not be issued payable as provided in this section unless the issuance of the bonds has been authorized by an election, or the bonds are issued prior to November 1, ~~1982~~ 1984 payable from a hotel and motel tax which was authorized at an election held prior to July 1, 1979.

Approved May 6, 1982

CHAPTER 1179

HABILITATIVE SERVICES AND TREATMENT TO MENTALLY RETARDED PRISONERS

H.F 748

AN ACT requiring the director of the division of adult corrections to provide available habilitative services and treatment to imprisoned mentally retarded offenders.

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

Section 1. Section 217.14, subsection 3, Code 1981, is amended to read as follows:

3. Establishment and maintenance of acceptable standards of treatment, training, education and rehabilitation in the various state penal and corrective institutions which, to the extent that resources are available within the division of adult corrections, shall include habilitative services and treatment for mentally retarded offenders. For the purposes of this subsection habilitative services and treatment means medical, mental health, social, educational, counseling, and other services which will assist a mentally retarded person to become self-reliant. A person is considered mentally retarded if the person is diagnosed as mentally retarded, as defined in section 222.2, subsection 5, by a qualified mental retardation professional. However, the director may also provide habilitative treatment and services to other persons who require the services.

Approved May 3, 1982

CHAPTER 1180

PENALTY AND INTEREST PAYABLE FOR FAILURE TO REMIT STATE TAX DUE

H.F. 2362

AN ACT relating to the penalty for failure to pay or remit ninety percent of tax for state motor vehicle fuel taxes, freight line and equipment car mileage taxes, income taxes, franchise taxes, inheritance and estate taxes, local hotel and motel taxes, and generation skipping transfer taxes, including provision for a variable interest rate for underpayment or overpayment on estimated payments of corporate income and franchise taxes, and making the Act retroactive to January 1, 1982, effective upon publication.

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

Section 1. Section 324.65, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 3, 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 appropriate state agency on or before the due date, unless it is shown that the 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 the failure continues, not exceeding twenty-five percent in the aggregate. If a licensee or other person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or ~~fails to pay~~ pays less than ninety percent of any ~~amount of the~~ tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 1 of this Act counting each fraction of a month as an entire month, computed from the date the return was required to be filed.

PARAGRAPH DIVIDED. The 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. However, if it appears as a result of an investigation or from a preponderance of the evidence adduced at a hearing 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~~ is 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~~ is subject to a penalty of ten dollars if the report is not timely filed with the appropriate state agency.

Sec. 2. Section 422.16, subsection 10, paragraph b, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 5, is amended to read as follows:

b. Any employer or withholding agent required under this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a monthly deposit form or quarterly return for the withholding of tax with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, is subject to a penalty determined by adding to the amount required to be shown as tax due on the monthly deposit form or quarterly 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 the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or quarterly return on or before the due date, or ~~fails to pay any amount of~~ pays less than ninety percent of any tax required to be shown on the monthly deposit form or quarterly return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a monthly deposit form or quarterly return and failure to pay the tax due or required on the monthly deposit

form or quarterly return, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the monthly deposit form or quarterly return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or quarterly return was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

Sec. 3. Section 422.25, subsection 2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 8, is amended to read as follows:

2. In addition to the tax or additional tax determined by the department under subsection 1, the taxpayer shall pay interest on the tax or additional tax at the rate in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. In case of failure to file a return with the department on or before the due date determined with regard to any extension of time for filing, unless it is shown that the 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 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 thereof during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or ~~fails to pay any amount of~~ pays less than ninety percent of any tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate. 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 otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the 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 is 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. 4. Section 422.88, subsection 1, Code 1981, is amended to read as follows:

1. If the taxpayer submits an underpayment of the estimated tax, the taxpayer ~~shall be~~ is subject to an underpayment penalty at the rate ~~of three-fourths of one percent per month~~ established under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1 upon the amount of the underpayment for the period of the underpayment.

Sec. 5. Section 422.91, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 133, section 3, is amended to read as follows:

Any amount of tax paid on a declaration of estimated tax shall be a credit against the amount of tax due on a final, completed return, and any overpayment of five dollars or more shall be refunded to the taxpayer with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate ~~of three-fourths of one percent per month or fraction of a month~~ established under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1, and the return shall constitute a claim for refund for this purpose. Amounts less than five dollars shall be refunded to the taxpayer only upon written application in accordance with section 422.73, but only if the application is filed within twelve months after the due date for the return.

Sec. 6. Section 435.5, Code 1981, is amended to read as follows:

435.5 PENALTY. In case of failure to file a return with the department on or before the due date, unless it is shown that the 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 the return five percent of the amount of 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 the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or ~~fails to pay~~ pays less than ninety percent of the total amount of the tax due as shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate. 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 the return fifty percent of the amount of the 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~~ is 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. 7. Section 450.63, subsection 2, Code 1981, is amended to read as follows:

2. If a person liable for the payment of tax as stated in section 450.5 fails to file a return with the department of revenue on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount of tax 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 the failure continues, not exceeding twenty-five percent in the aggregate. If a person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or ~~fails to pay~~ pays less than ninety percent of any ~~amount of~~ tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a return and failure to pay the tax due or required to be shown on the return, the penalty provision for failure to file ~~shall be~~ is in lieu of the penalty provision for failure to pay the tax due or required to be shown on the return.

Sec. 8. This Act, except sections 4 and 5, is retroactive to January 1, 1982 for tax returns due on or after that date.

Sec. 9. Sections 4 and 5 of this Act are retroactive to January 1, 1982 for computation of underpayments of estimated taxes already due and payable or to become due and payable on or after that date and for computation on interest on overpayments already paid or to become due and payable on or after that date.

Sec. 10. This Act, being deemed of immediate importance, takes effect from and after its publication in the Diamond Trail News, a newspaper published in Sully, Iowa, and in The Manchester Press, a newspaper published in Manchester, Iowa.

Approved May 3, 1982

I hereby certify that the foregoing Act, House File 2362 was published in the Diamond Trail News, Sully, Iowa on May 12, 1982 and in The Manchester Press, Manchester, Iowa, on May 12, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1181

CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY AND ADVISORY COUNCIL

S.F. 464

AN ACT creating a criminal and juvenile justice planning agency and a criminal and juvenile justice advisory council, prescribing duties, transferring existing programs, and abolishing the Iowa crime commission.

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

Section 1. NEW SECTION. AGENCY CREATED. The criminal and juvenile justice planning agency is created in the office of the governor. The agency is responsible for coordinating criminal and juvenile justice activities in the state including planning, research, program implementation, and the administration of grants and other funds. The governor shall appoint the executive director of the agency who shall serve at the pleasure of the governor. As used in sections 1 through 4 of this Act unless the context otherwise requires "agency" means the criminal and juvenile justice planning agency created in this section.

Sec. 2. NEW SECTION. ADVISORY COUNCIL. The criminal and juvenile justice advisory council is created to advise the agency in the performance of its duties and to perform other duties as required by law. The council shall consist of eleven members. The governor shall appoint seven members each for a four year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

1. Three persons who are either a county supervisor, county sheriff, a mayor, city chief of police or a county attorney.

2. Two persons shall represent the general public and shall not be employed in any law enforcement, judicial, or corrections capacity.

3. Two persons who are knowledgeable about Iowa's juvenile justice system.

The commissioner of the department of social services, the commissioner of public safety, the attorney general and the chief justice of the supreme court shall each designate a person to serve on the council.

Members of the council shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties. Public members shall also receive forty dollars per diem. As used in this Act unless the context otherwise requires "council" means the criminal and juvenile justice advisory council created in this section.

Sec. 3. NEW SECTION. DUTIES OF AGENCY. The agency shall act as the state criminal and juvenile justice planning agency for purposes established by state or federal laws and shall:

1. Identify issues and analyze the operation and impact of present criminal and juvenile justice policy and make recommendations for policy changes.

2. Coordinate with data resource agencies to provide data and analytical information to federal, state and local governments, and assist agencies in the use of criminal and juvenile justice data.

3. Report criminal and juvenile justice system needs to the governor, the general assembly, and other decision makers to improve the criminal and juvenile justice system.

4. Provide technical assistance upon request to state and local agencies.

5. Administer federal funds and funds appropriated by the state or that are otherwise available for study, research, investigation, planning and implementation in the areas of criminal and juvenile justice.

6. Make grants to cities, counties and areas pursuant to applicable law.

Sec. 4. NEW SECTION. PLAN AND REPORT. Beginning in 1984, and every five years thereafter, the agency shall develop a twenty-year criminal and juvenile justice plan for the state which shall include ten, fifteen, and twenty year goals and a comprehensive five year plan for criminal and juvenile justice programs. The five year plan shall be updated annually and each twenty year plan and annual updates of the five year plan shall be submitted to the governor and the general assembly by February 1.

Sec. 5. Section 7A.10, subsection 1, Code 1981, is amended to read as follows:

1. There is created a juvenile victim restitution program which shall be funded through funds appropriated by the general assembly to the ~~office for planning and programming~~ criminal and juvenile justice planning agency. The primary purpose of the program is to provide funds to compensate victims for losses due to the delinquent acts of juveniles.

Sec. 6. The Code editor shall transfer section 7A.10 to the same chapter in which sections 1 through 4 of this Act are placed.

Sec. 7. Chapter 80C, Code 1981, is repealed.

Sec. 8. On the effective date of this Act all property, programs, grants, and other funds of the Iowa crime commission are transferred to the criminal and juvenile justice planning agency.

Sec. 9. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 3, subsections 1, 2, and 3 are amended to read as follows:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
1. IOWA CRIME COMMISSION, OR ITS SUCCESSOR AGENCY		
a. Criminal justice planning	$ 234,000	$ ~~260,000~~ 116,350
b. Juvenile justice planning	$ 37,840	$ 48,935
c. Jail standards development, jail training, and technical assistance	$ 100,000	$

2. It is the intent of the general assembly that if the duties of the Iowa crime commission specified in subsection 1 of this section and for which funds are appropriated are subsequently

transferred to another agency, the funds appropriated in subsection 1 of this section are appropriated to the ~~successor agency~~ criminal and juvenile justice planning agency to be expended only for the purposes specified in subsection 1 of this section.

~~3. If legislation creating a criminal justice improvement fund is enacted and becomes law, the appropriations in subsection 1 of this section for each year of the fiscal biennium beginning July 1, 1981 and ending June 30, 1983 are void.~~

Approved May 21, 1982

CHAPTER 1182

PRIVATE FISH HATCHERIES

S.F. 452

AN ACT relating to private fish hatcheries.

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

Section 1. Section 109.64, Code 1981, is amended to read as follows:

109.64 LICENSE—REGULATIONS. It ~~shall be~~ is unlawful for any person to operate a private fish hatchery or engage in the business of propagating fish ~~native to the state of Iowa~~ in private waters until ~~such~~ the person has applied for and has been issued a private fish hatchery license as provided by state law. ~~Such~~ The license shall be renewed each year.

The term "private fish hatchery" ~~covering private fish hatcheries shall include~~ includes all private ponds, with or without buildings, used for the purpose of propagating or holding fish for commercial purposes.

No license shall be issued to operate private fish hatcheries on privately owned or nonmeandered lakes and streams or ponds that may become stocked with fish from public waters by overflow or natural migration.

Holders of private fish hatchery licenses may, in ~~said~~ the hatchery, possess, propagate, buy, sell, deal in and transport the fish produced from breeding stock lawfully acquired, but all fish sold for food purposes must comply with the state law regarding size limits.

They may sell fish for stocking purposes within or without the state, but no fish shall be sold for stocking purposes within the state that are not native to the state ~~and to the waters where stocked~~ unless application is first made in writing to the commission by the buyer for a permit therefor and a permit is granted.

Each operator of a private fish hatchery shall make an annual report of the number, kinds and sizes of the fish propagated and to whom sold during the license year on forms supplied by the commission. Failure to make ~~such~~ the report ~~shall be~~ is grounds for refusal to renew the license under which the hatchery operates.

Operators of private fish hatcheries shall secure their breeding stock from licensed private fish hatcheries in the state or from lawful sources outside the state and it ~~shall be~~ is unlawful for ~~such~~ hatcheries to secure stock in any other way.

Private fish hatchery operators who hold and feed carp, buffalo and other fish lawfully taken by commercial fishermen, may hold, feed and sell ~~such~~ the fish under private fish hatchery licenses.

Approved May 10, 1982

CHAPTER 1183

TAXABLE STATUS OF PROPERTY ACQUIRED FOR A PUBLIC ROAD

S.F. 549

AN ACT relating to the taxable status of property acquired in connection with the establishment, improvement, and maintenance of a public road and the collection of property taxes on the property.

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

Section 1. Section 427.2, Code 1981, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. When land or rights in land are acquired in connection with the establishment or maintenance or improvement of a public road, the acquiring authority shall assist in the collection of property taxes and special assessments. However, assistance in the collection of the property taxes and special assessments does not require the payment of property taxes and special assessments on the property acquired which exceed the amount of just compensation offered as required by section 472.45 for the acquisition of the property.

NEW UNNUMBERED PARAGRAPH. The property owner shall pay all property taxes and special assessments which are due and payable when the property owner surrenders possession of the property acquired and also those which become due and payable for the fiscal year the property is acquired in an amount equal to one-twelfth of the taxes and assessments due and payable on the property acquired for the preceding fiscal year multiplied by the number of months in the fiscal year in which the property was acquired which elapsed prior to the month in which the property owner surrenders possession, and including that month if the surrender of possession occurs after the fifteenth day of a month. For purposes of computing the payments, the property owner has surrendered possession of property acquired by eminent domain proceedings when the acquiring authority has the right to obtain possession of the acquired property by authority of section 472.26. When part but not all of the property is acquired for public road purposes, taxing authorities may collect property taxes and special assessments which the property owner is obligated to pay, in accordance with chapter 446, from that part of the property which is not acquired. The county treasurer shall collect and accept the payment received on property acquired for road purposes as full and final payment of all property tax and special assessments on the property and apportion the payment on the basis of the levy in effect in the fiscal year in which the property is acquired.

NEW UNNUMBERED PARAGRAPH. For that portion of the prorated year for which the acquiring authority has possession of the property or part of the property acquired in connection with the establishment or improvement or maintenance of a public road, all taxes and special assessments shall be canceled.

Approved May 3, 1982

CHAPTER 1184

HEALTH INSURANCE PREMIUM CREDIT FOR ACCRUED SICK LEAVE

S.F. 2215

AN ACT to provide that the arrangements made under a collective bargaining agreement of state employees for the payment of monthly life or health insurance premiums from banked sick leave upon retirement also apply to the management and supervisory personnel of the employees covered by the agreement.

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

Section 1. Section 79.23, Code 1981, is amended to read as follows:

79.23 CREDIT FOR ACCRUED SICK LEAVE. Commencing July 1, 1977, when a state employee, excluding an employee covered under a collective bargaining agreement which provides otherwise, retires under ~~the provisions of~~ a retirement system in the state maintained in whole or in part by public contributions or payments, the number of accrued days of active and banked sick leave of the employee shall be credited to the employee. When an employee retires, is eligible and has applied for benefits under a retirement system authorized under chapter 97A or 97B, including the teachers insurance annuity association (TIAA) and the college retirement equity fund (CREF), the employee shall receive a cash payment for the employee's accumulated, unused sick leave in both the active and banked sick leave accounts except when, in lieu of cash payment, payment is made for monthly premiums for health or life insurance or both as provided in a collective bargaining agreement negotiated under chapter 20. An employee of the department of public safety or the state conservation commission who has earned benefits of payment of premiums under a collective bargaining agreement and who becomes a manager or supervisor and is no longer covered by the agreement shall not lose the benefits of payment of premium earned while covered by the agreement. The payment shall be calculated by multiplying the number of hours of accumulated, unused sick leave by the employee's hourly rate of pay at the time of retirement. However, the total cash payment for accumulated, unused sick leave shall not exceed two thousand dollars and is payable upon retirement. Banked sick leave is defined as accrued sick leave in excess of ninety days. A state employee who retired on or after July 1, 1977, but before July 1, 1979, may file claims for the employee's accrued sick leave credit authorized in this section. The claim of a state employee paid through the state comptroller's centralized payroll system and the department of transportation payroll system shall be filed with the state comptroller on forms provided by the state comptroller. The claim for an employee of the state board of regents shall be filed with the state board of regents on forms provided by the board.

Sec. 2. An employee of the department of public safety or the state conservation commission who retires during the year beginning on the effective date of this Act shall be eligible for payment of life or health insurance premiums as provided for in the collective bargaining agreement covering the public safety bargaining unit if that employee previously served in a position which would have been covered by that agreement. The employee shall be given credit for the service in that prior position as though it was covered by the agreement.

Approved May 19, 1982

CHAPTER 1185

TEMPORARY SHORTHAND REPORTERS

S.F. 2204

AN ACT relating to shorthand reporters appointed on an emergency or temporary basis.

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

Section 1. Section 115.5, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

115.5 TEMPORARY SUBSTITUTES APPOINTED. If the regularly appointed shorthand reporter becomes disabled, or if a vacancy occurs in a regularly appointed shorthand reporter position, a judge may appoint an uncertified shorthand reporter who the judge deems a competent substitute for a period of up to six months upon certification by the chief judge of the judicial district that a regularly appointed shorthand reporter is disabled, or in the event of a vacancy, that a diligent but unsuccessful search has been conducted to hire a certified shorthand reporter.

Unless the person appointed under this section becomes certified within the period of appointment, the appointee shall not be eligible for any further appointment under this section.

Sec. 2. Section 605.8, subsection 3, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 9, section 29, is amended to read as follows:

3. Shorthand reporters who are employed on an emergency basis in the district court shall be paid not ~~to exceed seventy-five dollars per diem~~ more than their usual and customary fees, while employed by the court or while employed under the direction of the judge. The ~~per diem~~ payment shall be ~~paid~~ made from the county treasury where the court is held, upon the certificate of the judge holding the court, or directing the employment. ~~However, the maximum compensation for one-day attendance at court shall not exceed the per diem.~~ Payments shall be made at least once each month.

Approved May 21, 1982

CHAPTER 1186

FISCAL YEAR AND PROPERTY TAX LAWS APPLICABLE TO SPECIAL CHARTER CITIES

S.F. 2190

AN ACT providing for an extended fiscal year beginning April 1, 1982, and ending June 30, 1983 for a special charter city to convert to the levy and assessment schedule of the other political subdivisions of the state and repealing special provisions in property tax laws which apply to special charter cities.

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

Section 1. For any special charter city which levies and collects its own taxes, the special charter city shall provide for an extended fiscal year beginning April 1, 1982 and ending June 30, 1983, in accordance with sections 445.36 and 445.37. The tax levy for the extended fiscal year shall be based upon January 1, 1981 assessments. However, in determining the January 1, 1981 assessments for the special charter city levy only, the January 1, 1981 assessments shall be adjusted by any additions or deletions of value which occurred during the 1981 calendar year and which will be included in the January 1, 1982 valuations, subject to any adjustments ordered by the city board of review meeting in May, 1982. For the extended fiscal year beginning April 1, 1982 and ending June 30, 1983, the county auditor shall certify the values against which the city levy will be applied for the extended fiscal year. The city clerk shall apply the city property tax levy for the extended fiscal year against those values. Taxes payable for the extended fiscal year shall be due and payable to the city treasurer in two equal installments with the first installment payable on or before September 30, 1982 and the second installment payable on or before March 30, 1983.

This section shall not be codified as part of the permanent Code but shall appear in the session laws only.

Sec. 2. Section 425.1, subsections 7 and 8, Code 1981, are amended by striking the subsections.

Sec. 3. Section 425.40, Code 1981, is repealed.

Sec. 4. Section 441.21, subsections 8, 9, 10, and 11, Code 1981, are amended by striking the subsections.

Sec. 5. Sections 2, 3, and 4 of this Act are effective January 1, 1983.

Sec. 6. This Act, being deemed of immediate importance, takes effect from and after its publication in The North Scott Press, a newspaper published in Eldridge, Iowa, and in the Quad City Times, a newspaper published in Davenport, Iowa.

Approved April 30, 1982

I hereby certify that the foregoing Act, Senate File 2190 was published in The North Scott Press, Eldridge, Iowa on May 13, 1982 and in the Quad City Times, Davenport, Iowa, on May 7, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1187

IOWA HOUSING FINANCE AUTHORITY

S.F. 2253

AN ACT relating to the Iowa housing finance authority, effective upon publication.

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

Section 1. Section 220.1, subsection 11, paragraph a, Code 1981, is amended to read as follows:

a. "Housing" means single family and multi-family dwellings, and facilities incidental or appurtenant to the dwellings, and includes ~~noninstitutional residential~~ group homes of fifteen beds or less licensed as health care facilities or child foster care facilities and ~~shall also include a~~ modular or mobile ~~home~~ homes which ~~is~~ are permanently affixed to a foundation and ~~is~~ are assessed as realty.

Sec. 2. Section 220.1, subsection 12, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

12. "Health care facilities" means those facilities referred to in section 135C.1, subsection 4, which contain fifteen beds or less.

Sec. 3. Section 220.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Child foster care facilities" means the same as defined in section 237.1.

Sec. 4. Section 220.3, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. The interest costs paid by group homes of fifteen beds or less licensed as health care facilities or child foster care facilities for facility acquisition and indirectly reimbursed by the department of social services through payments for patients at those facilities who are recipients of medical assistance or state supplementary assistance are severe drains on the state's budget. A reduction in these costs obtained through financing with tax-exempt revenue bonds would clearly be in the public interest.

NEW SUBSECTION. There is a need in areas of the state for new construction of certain group homes of fifteen beds or less licensed as health care facilities or child foster care facilities to provide adequate housing and care for elderly and handicapped Iowans and to provide adequate housing and foster care for children.

Sec. 5. Section 220.12, subsections 1 and 5, Code 1981, are amended to read as follows:

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 financing of adequate housing for low or moderate income families, elderly families, families which include one or more persons who are handicapped or disabled, child foster care facilities, and ~~noninstitutional residential~~ health care facilities.

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~~ health care facilities or child foster care facilities, and shall also give consideration to:

a. The comparative need for housing, child foster care facilities, or ~~noninstitutional residential~~ health care facilities in the area.

b. The ability of the applicant to operate, manage and maintain the proposed housing.

Sec. 6. Section 220.28, subsection 2, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The bondholders or noteholders, to the extent provided in the resolution by which the bonds or notes were issued or in their agreement with the authority, may enforce any of the remedies in paragraphs a through e or the remedies provided in those agreements for and on their own behalf.

Sec. 7. Chapter 220, Code 1981, is amended by adding the following new sections:

NEW SECTION. ADDITIONAL LOAN PROGRAM.

1. The authority may enter into a loan agreement with a housing sponsor to finance in whole or in part the acquisition of housing by construction or purchase. The repayment obligation of the housing sponsor may be unsecured, secured by a mortgage or security agreement, or secured by other security as the authority deems advisable, and may be evidenced by one or more notes of the housing sponsor. The loan agreement may contain terms and conditions the authority deems advisable.

2. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and the investments of the proceeds may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the housing sponsor.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained in the agreement or instrument, the payment or performance may be enforced in accordance with the provisions contained in the agreement or instrument.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

3. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest shall be limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the housing sponsor, and that the principal and interest does not constitute an indebtedness of the authority or a charge against its general credit or general fund.

4. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.17, subsection 9

and section 175.19, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

NEW SECTION. For purposes of this section, "Internal Revenue Code of 1954" means the same as defined in section 422.4, "state ceiling" means the same as defined in section 103A(g)(4) of the Internal Revenue Code of 1954, and "qualified mortgage bonds" means the same as defined in section 103A(c) of the Internal Revenue Code of 1954.

Pursuant to section 103A(g)(6) of the Internal Revenue Code of 1954, the amount of the state ceiling for qualified mortgage bonds is allocated to the authority. The authority may provide pursuant to subsection 1 for reallocation of an amount, not in excess of fifty percent of the state ceiling, among other governmental units in the state having authority to issue qualified mortgage bonds.

1. An allocation to a governmental unit shall not exceed the amount which the governmental unit has shown can reasonably be anticipated to be fully utilized during that calendar year. In considering a request for allocation, the authority shall consider the following factors:

a. The number of requests received and expected to be received from other governmental units for the calendar year and the volume of bonds represented by those requests.

b. The population of the governmental unit making the request.

c. The volume of bonds issued or to be issued by the authority in the calendar year the proceeds of which will be allocated to the same geographical area.

d. The amount of bond proceeds to be targeted to areas of chronic economic distress as defined in section 103A(k)(3) of the Internal Revenue Code of 1954.

e. The economies of a bond issue of a larger or smaller size.

f. Allocations made under this section in the same or previous calendar years to the governmental unit.

g. If another governmental unit having authority to issue qualified mortgage bonds has jurisdiction over all or part of the same geographical area as the unit requesting an allocation and the realistic plans of that other unit to issue the bonds.

h. The probability that a governmental unit will be able to use the funds allocated within a reasonable period of time.

i. Other factors and considerations the authority deems necessary or appropriate.

Sec. 8. This Act, being deemed of immediate importance, takes effect from and after its publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa, and in The Council Bluffs Nonpareil, a newspaper published in Council Bluffs, Iowa.

Approved May 7, 1982

I hereby certify that the foregoing Act, Senate File 2253 was published in the Muscatine Journal, Muscatine, Iowa on June 8, 1982 and in The Council Bluffs Nonpareil, Council Bluffs, Iowa on June 30, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1188

TEMPERATURE OF FUEL SOLD

S.F. 2212

AN ACT relating to fuel sales including the temperature of fuel sold.

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

Section 1. Section 324.34, unnumbered paragraph 3, Code 1981, is amended to read as follows:

The department of revenue shall make reasonable rules ~~and regulations~~ governing the dispensing of special fuel by distributors, special fuel dealers and licensed special fuel users. The department shall require that all pumps located at 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 tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature corrected, only a temperature compensated meter shall be used.

The deliberate heating of road taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

Approved May 10, 1982

CHAPTER 1189

RAFFLES AND GAMES OF SKILL AND CHANCE

S.F. 387

AN ACT relating to raffles conducted by fairs and raffles and games other than bingo conducted by qualified organizations.

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

Section 1. Section 99B.5, subsection 1, paragraph g, Code 1981, is amended to read as follows:

g. The actual retail value of any prize does not exceed ~~twenty-five~~ fifty dollars. If a prize consists of more than one item, unit or part, the aggregate retail value of all items, units or parts shall not exceed ~~twenty-five~~ fifty dollars. However, a fair may hold ~~not more than~~ one

raffle per year at which a merchandise prize ~~may be awarded if of~~ having a value not greater than ~~five~~ ten thousand dollars as determined by the purchase price paid by the fair~~, and the cost of each chance in or ticket to that raffle may not exceed five dollars~~ may be awarded.

Sec. 2. Section 99B.7, subsection 1, paragraph d, Code 1981, is amended to read as follows:

d. Cash prizes shall not be awarded in games other than bingo. The actual retail value of any merchandise prizes shall not exceed ~~twenty-five~~ fifty dollars and ~~may~~ merchandise prizes shall not be repurchased. However, ~~a~~ one raffle may be conducted ~~not more than one time~~ in a twelve-month period at which a merchandise prize ~~may be awarded of~~ having a value not greater than ~~five~~ ten thousand dollars as determined by purchase price paid by the organization or donor ~~and for which the cost to a participant of a chance in or ticket to the raffle does not exceed five dollars~~ may be awarded.

Approved May 3, 1982

CHAPTER 1190

PERSONAL PROPERTY ASSESSMENTS

S.F. 2297

AN ACT providing that an assessor shall not list a taxpayer's personal property if the assessor determines that the personal property valuation has not increased to an amount greater than the amount of the credit and the taxpayer has filed a claim for the credit.

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

Section 1. Section 427A.3, Code 1981, is amended to read as follows:

427A.3 PROPERTY MUST BE LISTED. The personal property tax credit authorized by this chapter ~~shall~~ does not excuse the taxpayer from listing all personal property as required in chapter 428. However, if the reduced assessment for January 1 of any year is less than the credit allowed under section 427A.2 and the additional credit allowed under section 427A.9, against the previous year's assessment, the assessor is not required to contact the taxpayer in any succeeding year if the assessor determines that the personal property valuation of the taxpayer will not be greater than the amount of the credit and the taxpayer has a claim on file in the assessor's office. The valuation of ~~such~~ the personal property shall be determined as prescribed in chapter 441, so that the valuations of all personal property in a taxing district shall be known and shall be made a part of the tax list compiled by the county auditor under chapter 443.

Sec. 2. Section 427A.4, unnumbered paragraph 2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 140, section 1, is amended to read as follows:

Each ~~even-numbered~~ year, on or before July 1, ~~the~~ a taxpayer who has not previously filed an application with the assessor shall deliver to the assessor an application for personal property tax credit and state by the affidavit filed in each county where the taxpayer's personal property is situated, that the taxpayer has not claimed a total personal property tax

credit in all counties in excess of a total of ten thousand dollars assessed valuation. A claim filed in ~~1980 and each succeeding even-numbered year shall be~~ 1982 and thereafter is applicable for ~~that~~ the year in which the claim is filed and the succeeding ~~odd-numbered year~~ years.

Sec. 3. Section 427A.4, unnumbered paragraphs 3 and 4, Code 1981, are amended to read as follows:

~~It shall be the duty of the~~ The assessor ~~to~~ shall examine claims for ~~such~~ the credit filed ~~with him~~ in the assessor's office and recommend ~~on each such claim~~ the disallowance ~~thereof where~~ of any claim if it appears that an owner of tangible personal property has attempted to divide the ownership ~~thereof~~ of the property for purpose of obtaining additional credit beyond the amount of ten thousand dollars in a year.

If any person fails to make application for the credits provided for under this chapter ~~as herein required, he shall be~~ the person is deemed to have waived the personal property tax credit ~~for the year in which he failed to make claim~~.

Sec. 4. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 140, section 2, is repealed.

Sec. 5. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 140, section 3, is amended to read as follows:

SEC. 3. Section 428.4, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An assessor ~~shall~~ is not ~~be~~ required to contact a taxpayer in ~~odd-numbered years~~ any year for the purpose of listing personal property but each taxpayer shall ~~be required to~~ file a revised listing of personal property with the assessor itemizing any additions or deletions to the listing if the valuation of the taxpayer's personal property will affect the taxpayer's exemption. However, if a taxpayer fails to file a revised listing, where ~~such~~ a filing would show an increase in valuation of the taxpayer's personal property, the taxpayer shall only be assessed the taxes and interest due on the property the taxpayer has failed to report.

Approved May 7, 1982

CHAPTER 1191

AGRICULTURAL AND VEGETABLE SEED REGULATION

S.F. 2221

AN ACT relating to the regulation of agricultural and vegetable seed, and relating to penalties.

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

Section 1. Section 199.1, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

199.1 DEFINITIONS. For the purpose of this chapter or as used in labeling of seed:

1. "Person" means an individual, partnership, corporation, company, society, or association.

2. "Agricultural seed" means grass, forage, cereal, oil, fiber, and any other kind of crop seed commonly recognized within this state as agricultural seed, lawn seed, vegetable seed, or seed mixtures. Agricultural seed may include any additional seed the secretary designates by rules.

3. "Vegetable seed" means the crops which are grown in gardens or truck farms and are generally sold under the name of vegetable or herb seed in this state.

4. "Weed seed" means the seed of all plants listed as weeds in this chapter or listed as weeds in the rules of the department or commonly recognized as weeds in this state.

5. Noxious weed seed shall be divided into two classes, "primary noxious weed seed" and "secondary noxious weed seed" which are defined in paragraphs a and b of this subsection. The secretary, upon the recommendation of the dean of agriculture, Iowa state university of science and technology, shall adopt as a rule, after public hearing, pursuant to chapter 17A, the list of seed classified as "primary noxious weed seed" and "secondary noxious weed seed".

a. "Primary noxious weed seed" are the seed of perennial weeds that reproduce by seed and by underground roots or stems and which, when established, are highly destructive and difficult to control in this state by good cultural practices. For the purpose of this chapter and the sale of seed, primary noxious weeds in this state are the seeds of:

(1) Quack grass—Agropyron repens (L.) Beauv.
(2) Canada thistle—Cirsium arvense (L.) Scop.
(3) Perennial sow thistle—Sonchus arvensis L.
(4) Perennial pepper grass (hoary cress)—Cardaria draba (L.) Desv.
(5) European morning-glory (field bindweed)—Convolvulus arvensis L.
(6) Horse nettle—Solanum carolinense L.
(7) Leafy spurge—Euphorbia esula L.
(8) Russian knapweed—Centaurea repens L.

b. "Secondary noxious weed seed" are the seed of weeds that are very objectionable in fields, lawns, or gardens in this state, but can be controlled by good cultural practices. For the purpose of this chapter and the sale of seed, the secondary noxious weed seeds in this state are the seeds of:

(1) Wild carrot—Daucus carota L.
(2) Sour dock (curly dock)—Rumex crispus L.
(3) Smooth dock—Rumex altissimus Wood.
(4) Sheep sorrel (red sorrel)—Rumex acetosella L.
(5) Butterprint (velvet leaf)—Abutilon theophrasti Medic.
(6) Mustards—Brassica juncea (L.) Coss., Sinapis arvensis L. and B. nigra (L.) Koch.
(7) Cocklebur—Xanthium strumarium L.
(8) Buckhorn—Plantago lanceolata L.
(9) Dodders—Cuscuta species.
(10) Giant foxtail—Setaria faberii Herrm.
(11) Poison hemlock—Conium maculatum.
(12) Wild sunflower—Wild strain of Helianthus annus (L.)
(13) Puncture vine—Tribulus terrestris.

6. "Purity" means the pure seed percentage by weight, exclusive of inert matter and of other agricultural or weed seed which are distinguishable by their appearance from the crop seed in question.

7. "Tolerance" means the allowable deviation from any figure used on a label to designate the percentage of any component or the number of seeds given for the lot in question and is based on the law of normal variation from a mean. The secretary shall prepare tables of

tolerances allowable in the enforcement of this chapter and may be guided in the preparation by the regulations under the federal Seed Act, 7 C.F.R., sec. 201.59 et. seq.

8. "Treated seed" means agricultural seed that has been given an application of a substance, or subjected to a procedure, for which a claim is made or which is designed to reduce, control or repel disease organisms, insects, or other pests which attack seed or seedlings.

9. "Coated seed" means seed that has been encapsulated or covered with a substance other than those defined as "inoculated seed" or "treated seed". Pelleted seed is a subclass of "coated seed".

10. "Inoculant for leguminous plants" means a bacterial culture, or material containing bacteria, that is represented as causing the formation of nodules and aiding the growth of leguminous plants by the fixation of nitrogen.

11. "Inoculated seed" means seed to which has been added a substance containing the cells, spores or mycelia of microorganisms for which a claim is made.

12. "Labeling" means all labels and other written, printed, or graphic representations, in any form, accompanying and pertaining to seed, whether in bulk or in containers, and includes invoices.

13. "Advertisement" means all representations, other than those on the label, relating to seed within the scope of this chapter.

14. "Permit holder" is a person who has obtained a permit from the department as required under sections 199.15 and 199.16.

15. "Registered seed technologist" is a person who has attained registered membership in the society of commercial seed technologists through qualifying tests and experience as required by this society.

16. "Record" means all information relating to a shipment of agricultural seed and includes a file sample of each lot of seed.

17. "Kind" means one or more related species or subspecies which singly or collectively are known by one common name.

18. "Conditioning" means cleaning to remove chaff, sterile florets, immature seed, weed seed, inert matter, and other crop seed; scarifying; blending to obtain uniform quality; or any other operation which may change the purity or germination of the seed and require retesting to determine the quality of the seed.

19. "Cultivar" or "variety" means a cultivated subdivision of a kind of plant that may be characterized by growth habits, fruit, seed, or other characteristics, by which it can be differentiated from other plants of the same kind.

20. "Mixture" or "blend" means a combination of seed of more than one kind or variety if present in excess of five percent of the whole.

21. "Multiline cultivar" means a planned combination of two or more near-isogenic lines of a normally self-fertilizing kind of crop.

22. "Hybrid" means the first generation seed produced by controlled pollination of two inbred lines to produce a single cross; an inbred line and a single cross of two unrelated inbred lines to produce a three-way cross; an inbred line and a single cross of two related lines to produce a modified single cross; two single crosses to produce a double cross; an inbred line or a single cross with an open-pollinated or synthetic cultivar to produce a modified cultivar cross; or a cross of two open-pollinated or synthetic cultivars to produce a cultivar cross. The second or subsequent generation from such crosses are not hybrids. Hybrid designations shall be treated as cultivar names.

23. "Certifying agency" means an agency authorized under the laws of a state, territory, or possession to officially certify seed and which has standards and procedures approved by the

United States secretary of agriculture to assure genetic purity and identity of the seed certified, or an agency of a foreign country determined by the United States secretary of agriculture to adhere to the procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies in the United States.

The Iowa Secretary of Agriculture shall by rule, define the terms "breeder", "foundation", "registered", "certified" and "inbred", as used in this Act.

Sec. 2. Section 199.2, Code 1981, is amended to read as follows:

199.2 ~~BOTANIST~~ DEAN OF AGRICULTURE AS ADVISOR. The ~~state botanist~~ dean of agriculture of Iowa state university of science and technology or the dean's designee shall be the technical advisor to the secretary in the administration of this chapter.

Sec. 3. Section 199.3, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

199.3 LABELING OF SEED. Each container of agricultural or vegetable seed which is sold, offered for sale, exposed for sale, or transported within this state shall be labeled according to the following schedule:

1. Seed for sowing purposes shall be labeled as follows:

a. Agricultural or vegetable seed that is treated, inoculated, or coated shall contain a word or statement indicating that the treatment, inoculation, or coating has been done. A separate label may be used.

b. If treated, the label shall indicate the commonly accepted chemical or abbreviated chemical name of the applied substance or substances or a description of the type and purpose of procedure used. If the substance in the amount present with the seed is harmful to human or vertebrate animals, the label shall bear a caution statement such as "Do not use for food, feed, or oil purposes". In addition, for highly toxic substances, a poison statement or symbol shall be shown on the label.

c. If the seed is inoculated, the label shall indicate the month and year beyond which the inoculant is not claimed to be effective.

d. If the seed is coated, the label shall show the percentage by weight in the container of pure seed, inert matter, coating material, other crop seed, and weed seed. The percentage of germination shall be labeled on the basis of a determination made on at least four hundred pellets or capsules, whether or not they contain seed.

e. All seed in package or wrapped form which are required to be labeled, unless otherwise provided, shall conform to the requirements of sections 189.9 and 189.11.

2. Except for seed mixtures for lawn or turf purposes, agricultural seed shall bear a label indicating:

a. The name of the kind or kind and variety for each agricultural seed present in excess of five percent of the whole and the percentage by weight of each. If the variety of those kinds generally labeled as to variety is not stated, the label shall show the name of the kind and the words, "variety not stated". Hybrids shall be labeled as hybrids. Seed shall not be labeled or advertised under a trademark or brand name in a manner that may create the impression that the trademark or brand name is a variety name.

b. Lot number or other lot identification.

c. State or foreign country of origin, if known, of alfalfa and red clover. If the origin is unknown, the fact shall be stated.

d. Percentage by weight of all weed seed.

e. The name and rate of occurrence per unit of weight of each kind of secondary noxious weed seed present.

f. Percentage by weight of agricultural seed which may be designated as "other crop seed" other than those required to be named on the label.

g. Percentage by weight of inert matter.

h. For each named agricultural seed:

(1) Percentage of germination, exclusive of hard seed.

(2) Percentage of hard seed, if present.

(3) The calendar month and year the test was completed to determine the percentages.

Following (1) and (2), the "total germination and hard seed" may be stated as such, if desired.

i. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

3. For seed mixtures for lawn or turf purposes, the label shall indicate:

a. The word "mixed" or "mixture" along with the name of the mixture.

b. The heading "pure seed" and "germination" or "germ" where appropriate.

c. Commonly accepted name of kind or kind and variety of each turf seed component in excess of five percent of the whole, and the percentage by weight of pure seed in order of its predominance and in columnar form.

d. Name and percentage by weight of other agricultural seed than those required to be named on the label which shall be designated as "other crop seed". If the mixture contains no "other crop seed" that fact may be indicated by the words "contains no other crop seed".

e. Percentage by weight of inert matter.

f. Percentage by weight of all weed seed. Maximum weed seed content not to exceed one percent by weight.

g. The name and rate of occurrence per unit of weight of each kind of secondary noxious weed seed present.

h. For each turf seed named under paragraph c:

(1) Percentage of germination, exclusive of hard seed.

(2) Percentage of hard seed, if present.

(3) Calendar month and year the test was completed to determine such percentages. The oldest current test date applicable to any single kind in the mixture shall appear on the label.

i. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within the state.

4. The labeling requirements for vegetable seed sold from containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser. Packets of vegetable seed prepared for use in home gardens or household plantings or vegetable seed in preplanted containers, mats, tapes, or other planting devices, shall bear labels with the following information:

a. Name of kind and variety of seed.

b. Lot identification.

c. The year for which the seed was packed for sale or the percentage of germination and the calendar month and year the test to determine such percentage was completed.

d. Name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within the state.

e. For seed which germinate less than the standard last established by the secretary in rules adopted under chapter 17A:

(1) Percentage of germination, exclusive of hard seed.

(2) Percentage of hard seed, if present.

(3) The words "below standard" in not less than eight point type.

f. For seed placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seed from the medium, mat, tape, or device, a statement to indicate the minimum number of seed in the container.

5. All other vegetable seed containers shall be labeled, indicating:

a. The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance.

b. Lot number or other lot identification.

c. For each named vegetable seed:

(1) Percentage germination exclusive of hard seed.

(2) Percentage of hard seed, if present.

(3) The calendar month and year the test was completed to determine such percentages.

Following (1) and (2) the "total germination and hard seed" may be stated as such, if desired.

d. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within the state.

6. Seed sold on or from the farm, which is exempt from the permit requirements by section 199.15, shall be labeled on the basis of tests performed by the Iowa state university of science and technology seed laboratory, department of agriculture seed laboratory, or a commercial seed laboratory personally supervised by a registered seed technologist. Tests for labeling shall be as provided in section 199.10.

Sec. 4. Section 199.4, Code 1981, is amended to read as follows:

199.4 SALES FROM BULK. In case agricultural or vegetable seed is offered or exposed for sale in bulk or sold from bulk, the information required under section 199.3, ~~subsection 1,~~ may be supplied by ~~(1)~~ a placard conspicuously displayed with the several required items thereon or ~~(2)~~ a printed or written statement to be furnished to any purchaser of ~~said~~ the seed.

Sec. 5. Section 199.5, Code 1981, is amended to read as follows:

199.5 HYBRID CORN. It ~~shall be~~ is unlawful for any person to sell, offer or expose for sale, or falsely mark or tag, within the state any seed corn as hybrid unless it ~~represents the first generation of a cross between strains of different parentage and involving inbred lines of corn and (or) their combinations~~ falls within the definition of hybrid in section 199.1. ~~Any corn sold as "hybrid" shall have plainly printed or marked on the label or container in which such corn is sold the identifying symbols or numbers, clearly indicating the specific combination. The cross mentioned above shall be produced by cross-fertilization, controlled either by hand or detasseling at the proper time.~~

Sec. 6. Section 199.7, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The classes of certified seed ~~shall be~~ are breeder, foundation, registered, and certified and shall be recognized by the certifying agency.

Sec. 7. Section 199.8, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

199.8 PROHIBITED ACTS.

1. It is unlawful for a person to sell, transport, offer for sale, expose for sale, or advertise an agricultural or vegetable seed:

a. Unless the test to determine the percentage of germination as required by this chapter has been completed within nine months, excluding the month of the test, immediately prior to selling, transporting, offering, exposing, or advertising for sale. A retest is not required for seed in hermetically sealed containers or packages provided they have not reached the thirty-six month expiration date.

b. Not labeled in accordance with the provisions of this chapter, or having a false or misleading label.

c. For which there has been false or misleading advertising.

d. Consisting of or containing primary noxious weed seed, subject to recognized tolerances.

e. Consisting of or containing secondary noxious weed seed per weight unit in excess of the number prescribed by rules adopted under this chapter, or in excess of the number declared on the label attached to the container of the seed or associated with the seed.

f. Containing more than one and one-half percent by weight of all weed seed.

g. If any labeling, advertising, or other representation subject to this chapter represents the seed to be certified seed or any class thereof, unless:

(1) It has been determined by a seed certifying agency that the seed conforms to standards of varietal purity and identity as to kind in compliance with the rules and regulations of the agency.

(2) The seed bears an official label issued for the seed by a seed certifying agency stating that the seed is of a specified class and a specified kind or variety.

h. Labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which a United States certificate of plant variety protection under the Plant Variety Protection Act, 7 U.S.C. sec. 2321 et. seq., specifies sale only as a class of certified seed. Seed from a certified lot may be labeled as to variety name and used in a blend, by or with the approval of the owner of the variety.

2. It is unlawful for a person to:

a. Detach, alter, deface, or destroy a label provided for in this chapter or the rules adopted under this chapter, or to alter or substitute seed in a manner that may defeat the purpose of this chapter.

b. Disseminate false or misleading advertisements concerning seed subject to this chapter.

c. Hinder or obstruct in any way an authorized person in the performance of duties under this chapter.

d. Fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop sale" order or tags attached thereto, except with express permission of the enforcing officer, and for the purpose specified thereby.

e. Use the word "trace" as a substitute for any statement which is required.

f. Use the word "type" in labeling in connection with the name of an agricultural seed variety.

3. It is unlawful for a person to sell, transport, offer for sale, expose for sale, or advertise screenings of any agricultural seed subject to this chapter, unless it is stated on the label if in containers or on the invoice if in bulk, that they are not intended for seeding purposes. For the purpose of this subsection, "screenings" includes chaff, empty florets, immature seed, weed seed, inert matter, and other materials removed by cleaning from any agricultural seed subject to this chapter.

Sec. 8. Section 199.9, Code 1981, is amended to read as follows:

199.9 EXEMPTIONS.

1. ~~The provisions of sections~~ Sections 199.3 and 199.8 do not apply— to:

a. ~~To seed~~ Seed or grain not intended for sowing purposes.

b. ~~To seed~~ Seed in storage in, or consigned to, or for sale to, a seed cleaning or ~~processing~~ conditioning establishment for cleaning or ~~processing~~ conditioning; provided that any labeling or other representation which ~~may be~~ is made with respect to the unclean or unconditioned seed ~~shall be~~ is subject to this chapter.

c. A carrier in respect to seed transported or delivered for transportation in the ordinary course of its business as a carrier provided that the carrier is not engaged in producing, conditioning, or marketing seed, and subject to this chapter.

2. ~~No~~ A person ~~shall be~~ is not subject to the penalties of this chapter~~,~~ for having sold, offered or exposed for sale in this state any agricultural seeds~~,~~ which were incorrectly labeled or represented as to kind, species, variety, ~~type,~~ or origin ~~which~~ when those seeds cannot be identified by examination ~~thereof~~, unless ~~he~~ the person has failed to obtain an invoice or genuine grower's declaration ~~giving kind, or kind and variety, or kind and type, and origin, if required and to take such other precautions as shown by the records of purchase. The provisions of section 199.7 shall not be interpreted to restrict the color of the container~~ or other

labeling information and to take other precautions as reasonable to ensure the identity. A genuine grower's declaration of variety shall affirm that the grower holds records of proof concerning parent seed such as invoices and labels.

Sec. 9. Section 199.10, subsection 1, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Seed lots of all kinds of agricultural seed~~, except seed corn,~~ intended for sale in this state shall be tested in accordance with the ~~Association~~ association of ~~Official Seed Analysts~~ official seed analysts' rules for testing seed or the ~~rules and~~ regulations under the federal Seed Act. The tests required shall be:

Sec. 10. Section 199.10, subsection 2, Code 1981, is amended by striking the subsection.

Sec. 11. Section 199.10, subsection 3, paragraph a, Code 1981, is amended by striking the paragraph.

Sec. 12. Section 199.12, Code 1981, is amended to read as follows:

199.12 SEIZURE OF UNLAWFUL SEED. Upon the recommendation of the ~~state~~ secretary ~~of agriculture~~ or ~~his~~ the secretary's duly authorized agents, the court of competent jurisdiction in the area in which the seed is located shall cause the seizure and subsequent denaturing, ~~processing~~ conditioning, or destruction to prevent the use for sowing purposes of any lot of agricultural seed found to be prohibited from sale as set forth in section 199.8, ~~subsection 1, paragraphs "d" and "e", and subsection 2;~~ provided~~,~~ that in no instance shall the denaturing, ~~processing~~ conditioning, or destruction be ordered without first having given the claimant of ~~said~~ the seed an opportunity to apply to ~~said~~ the court for the release of ~~said~~ the seed.

Sec. 13. Section 199.13, Code 1981, is amended to read as follows:

199.13 PENALTY. ~~Every~~ A violation of ~~the provisions of~~ this chapter ~~shall be deemed~~ is a simple misdemeanor. The department of agriculture ~~through its duly authorized agent or agents,~~ may institute criminal or civil proceedings in a court of competent jurisdiction to enforce ~~the provisions of~~ this chapter. When in the performance of the secretary's duties in enforcing this chapter the secretary applies to a court for a temporary or permanent injunction restraining a person from violating or continuing to violate any of the provisions of this chapter or rules adopted under this chapter, the injunction is to be issued without bond and the person restrained by the injunction shall pay the costs made necessary by the procedure.

Sec. 14. Section 199.15, Code 1981, is amended to read as follows:

199.15 PERMIT ~~NUMBER~~—FEE—FRAUD. ~~No~~ A person shall not sell, distribute, advertise, solicit orders for, offer or expose for sale, ~~any~~ agricultural or vegetable seed without first obtaining from the department a permit ~~number~~ to engage in ~~such~~ the business. ~~No~~ A permit ~~number shall be~~ is not required of persons selling seeds~~, including seed corn,~~ which ~~has~~ have been packed and distributed by a ~~seedsman~~ person holding and having in force a permit ~~number as herein provided~~. ~~No~~ A permit ~~number shall be~~ is not required of persons selling or advertising~~, offering or exposing for sale~~ seed of their own production, provided that ~~such~~ the seed is stored or delivered to a purchaser only on or from the farm or premises where grown. The fee for ~~each~~ a new permit ~~number shall be five~~ is ten dollars ~~per annum,~~ and the fee for a renewed permit is based on the gross annual sales of seeds in Iowa during the previous twelve-month period under the permit holder's label and all ~~permit numbers shall~~ permits expire on the first day of July following date of issue. Permits shall be issued subject to the following fee schedule:

Gross sales of seeds		Fee
Not more than	$ 25,000	$10
Over $25,000 but not exceeding	50,000	20
Over $50,000 but not exceeding	100,000	30
Over $100,000 but not exceeding	200,000	40

For each additional increment of one hundred thousand dollars of sales in Iowa the fee shall increase by ten dollars. The fee shall not exceed five hundred dollars for a permit holder.

PARAGRAPH DIVIDED. After due notice given at least ten days prior to a date of hearing fixed by the secretary ~~of agriculture~~, the department may revoke or refuse to renew ~~any~~ a permit issued under ~~the authority of~~ this section~~,~~ if a violation of this chapter or if intent to defraud is established. The failure to fulfill ~~any~~ a contract to repurchase the seed crop produced from any agricultural seed, ~~other than hybrid seed corn,~~ if the ~~same~~ crop meets the requirements set forth in the contract and the standards specified in this chapter, ~~shall be~~ is prima-facie evidence of intent to defraud the purchaser at the time of entering into the contract. However, this does not apply when seed stock is furnished by the contractor to the grower at no cost.

Sec. 15. Section 199.16, Code 1981, is amended to read as follows:

199.16 PERMIT HOLDER'S BOND. It ~~shall be~~ is unlawful for the holder of any permit to enter into a contract with a ~~purchaser of any~~ person who purchases agricultural seed ~~other than hybrid seed corn,~~ whereby the permit holder agrees to repurchase the seed crop produced ~~therefrom~~ from the purchased seed at a price in excess of the current market price at time of delivery, unless the permit holder ~~shall have~~ has on file with the department ~~of agriculture~~ a bond, in a penal sum of ~~ten~~ twenty-five thousand dollars running to the state of Iowa, with sureties approved by the secretary ~~of agriculture~~, for the use and benefit of ~~any purchaser of seed~~ the person holding ~~such a~~ the contract who might have a cause of action of any nature arising from ~~or out of such~~ the purchase or ~~agreement, provided, however, that~~ contract. However, the aggregate liability of the surety to ~~all such purchasers~~ the person shall~~, in no event,~~ not exceed the sum of ~~such~~ the bond~~; and provided, further, however, that any permit holder may, upon the filing of a notarized and detailed financial statement, request that such showing be accepted in lieu of the bond and ask to be exonerated from the filing of the bond herein required. If, after considering the financial statement and any other evidence submitted, the secretary of agriculture finds that the applicant permit holder is accountable for the performance of such contract obligations the notarized financial statement shall be filed in lieu of the bond and applicant shall be so advised by registered mail.~~

Sec. 16. Chapter 199, Code 1981, is amended by adding the following new section:

NEW SECTION. A person whose name appears on the label as handling agricultural or vegetable seed subject to this chapter shall keep for a period of two years complete records of each lot of agricultural or vegetable seed handled and shall keep for one year a file sample of each lot of seed after final disposition of the lot. The records and samples pertaining to the shipments involved shall be accessible for inspection by the department during the customary business hours.

Approved May 12, 1982

CHAPTER 1192

STATE INCOME TAX DEPENDENT CARE DEDUCTION

S.F. 2305

AN ACT to allow a state individual income tax deduction to a taxpayer for expenses incurred for caring for a grandchild, child, parent, or grandparent of the taxpayer or the taxpayer's spouse in the home of the taxpayer with a January 1 effective date.

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

Section 1. Section 422.9, subsection 2, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Add the amount, not to exceed five thousand dollars, of expenses not otherwise deductible under this section actually incurred in the home of the taxpayer for the care of a person who is the grandchild, child, parent, or grandparent of the taxpayer or the taxpayer's spouse and who is unable, by reason of physical or mental disability, to live independently and is receiving, or would be eligible to receive if living in a health care facility licensed under chapter 135C, medical assistance benefits under chapter 249A. In the event that the person being cared for is receiving assistance benefits under chapter 239, the expenses not otherwise deductible shall be the net difference between the expenses actually incurred in caring for the person and the assistance benefits received under chapter 239.

Sec. 2. This Act takes effect January 1 following enactment for tax years beginning on or after that date.

Approved May 21, 1982

CHAPTER 1193

SHOOTING RANGES

H.F. 2435

AN ACT relating to shooting ranges.

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

Section 1. NEW SECTION. Before a person improves property acquired to establish, use, and maintain a shooting range by the erection of buildings, breastworks, ramparts, or other works or before a person substantially changes the existing use of a shooting range, the person shall obtain approval of the county zoning commission or the city zoning commission, whichever is appropriate. The appropriate commission shall comply with section 358A.8 or

414.6. In the event a county or city does not have a zoning commission, the county board of supervisors or the city council shall comply with section 358A.6 or 414.5 before granting the approval.

A person who acquires title to or who owns real property adversely affected by the use of property with a permanently located and improved range shall not maintain a nuisance action against the person who owns the range to restrain, enjoin, or impede the use of the range where there has not been any substantial change in the nature of the use of the range. This section shall not be in any way construed to enjoin actions for negligence or recklessness in the operation of the range or by any person using the range.

Approved May 17, 1982

CHAPTER 1194

CERTIFICATE OF NEED PROGRAM

H.F. 2483

AN ACT relating to the applicability of the certificate of need program.

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

Section 1. Section 135.61, subsection 19, paragraphs c, e, and g, Code 1981, are amended to read as follows:

c. Any expenditure by or on behalf of an institutional health facility or a health maintenance organization in excess of ~~one~~ six hundred ~~fifty~~ thousand dollars which, under generally accepted accounting principles consistently applied, is a capital expenditure, or any acquisition by lease or donation to which this subsection would be applicable if the acquisition were made by purchase.

e. ~~Health~~ Any expenditure in excess of two hundred fifty thousand dollars for health services which are or will be offered in or through an institutional health facility or a health maintenance organization at a specific time but which were not offered on a regular basis in or through that institutional health facility or health maintenance organization within the twelve-month period prior to that time.

g. Any expenditure by or on behalf of an individual health care provider or group of health care providers, in excess of ~~one~~ four hundred ~~fifty~~ thousand dollars, ~~which:~~

~~(1)~~ ~~Is~~ made for the purchase or acquisition of a single piece of new equipment which is to be installed and used in a private office or clinic, and for which a certificate of need would be required if the equipment were being purchased or acquired by an institutional health facility or health maintenance organization;, and

~~(2)~~ ~~Is~~ which is, under generally accepted accounting principles consistently applied, a capital expenditure.

Sec. 2. Section 135.61, subsection 19, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. Any expenditure by or on behalf of an institutional health facility or a health maintenance organization in excess of four hundred thousand dollars, which is made

for the purchase or acquisition of a single piece of new equipment which is to be installed and used in an institutional health facility or a health maintenance organization, and which is, under generally accepted accounting principles consistently applied, a capital expenditure.

Sec. 3. Section 135.63, subsection 2, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. A health maintenance organization or combination of health maintenance organizations or an institutional health facility controlled directly or indirectly by a health maintenance organization or combination of health maintenance organizations, except when the health maintenance organization or combination of health maintenance organizations does any of the following:

(1) Constructs, develops, renovates, relocates, or otherwise establishes an institutional health facility.

(2) Acquires major medical equipment as provided by section 135.61, subsection 19, paragraph g.

Approved May 21, 1982

CHAPTER 1195

DIRECT DEPOSIT OF TAX REVENUES BY COUNTY TREASURER

H.F. 2495

AN ACT relating to the direct deposit of tax revenues collected by the county treasurer on behalf of certain political subdivisions.

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

Section 1. Section 298.13, Code 1981 Supplement, is amended by striking the section and inserting in lieu thereof the following:

298.13 DIRECT DEPOSIT OF TAX REVENUE. Before the fifteenth day of each month, the county treasurer shall send the amount collected for each fund through the last day of the preceding month for direct deposit into the depository and account designated by the school board. The county treasurer shall send a notice to the secretary of the school board stating the amount deposited, the date, the amount to be credited to each fund according to the budget, and the source of revenue.

Sec. 2. Section 331.552, subsection 18, Code 1981 Supplement, is amended to read as follows:

18. Pay to the treasurers of the school corporations located in the county the taxes and other moneys due as provided in ~~sections~~ section 298.11 and send amounts collected for each fund of a school corporation for direct deposit into the depository and account designated as provided in section 298.13 in section 1 of this Act.

Sec. 3. Section 331.558, subsection 1, Code 1981 Supplement, is amended to read as follows:

1. A monthly report to the ~~board of directors of each school corporation in the county~~ secretary of the school board of the amount of taxes collected for each fund and other information as provided in section 298.13 in section 1 of this Act.

Sec. 4. Section 331.559, subsection 10, Code 1981 Supplement, is amended to read as follows:

10. ~~Pay monthly to each city~~ Send the amounts of each city's tax revenue collected on its behalf ~~during the preceding month~~ for direct deposit into the depository and account designated as provided in section 384.11 in section 5 of this Act.

Sec. 5. Section 384.11, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

384.11 DIRECT DEPOSIT OF TAXES. Before the fifteenth day of each month, the county treasurer shall send the amount collected for each fund through the last day of the preceding month for direct deposit into the depository and the account designated by the city clerk. The county treasurer shall send a notice at the same time to the city clerk stating the amount deposited, date, amount to be credited to each fund according to the budget, and the source of the revenue.

Approved May 22, 1982

CHAPTER 1196

STATE FISH AND GAME PROTECTION FUND INCOME TAX CHECKOFF

H.F. 2486

AN ACT to provide that the income tax checkoff for the state fish and game protection fund is retroactive to January 1, 1982 for tax years beginning on or after that date.

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

Section 1. House File 396, section 2, enacted by the Sixty-ninth General Assembly, 1982 Session, is amended to read as follows:

SEC. 2. This Act ~~takes effect~~ is retroactive to January 1, ~~following enactment~~ 1982 for tax years beginning on or after that date.

Approved May 21, 1982

CHAPTER 1197

UNPAID SUPPORT PAYMENTS AND JUDGMENTS

H.F. 2368

AN ACT adding unpaid support payments and other related judgments as an additional class of debts of an estate given preference over payment of certain other debts and charges.

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

Section 1. Section 633.425, Code 1981, is amended to read as follows:

633.425 CLASSIFICATION OF DEBTS AND CHARGES. In any estate in which the assets are, or appear to be, insufficient to pay in full all debts and charges of the estate, the personal representative shall classify ~~such~~ the debts and charges as follows:

1. Court costs.
2. Other costs of administration.
3. Reasonable funeral and burial expenses.
4. All debts and taxes having preference under the laws of the United States.
5. Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending ~~him~~ at ~~his~~ the decedent's last illness.
6. All taxes having preferences under the laws of this state.
7. All debts owing to employees for labor performed during the ninety days next preceding the death of the decedent.
8. All unpaid support payments as defined in section 598.1, subsection 2, and all additional unpaid awards and judgments against the decedent in any dissolution, separate maintenance, uniform support, or paternity action to the extent that the support, awards, and judgments have accrued at the time of death of the decedent.

~~8~~ 9. All other claims allowed.

Approved May 14, 1982

CHAPTER 1198

PERSONAL LIABILITY OF EMERGENCY VOLUNTEERS
H.F. 2344

AN ACT relating to the personal liability of volunteer fire fighters and rescue service operators who render emergency assistance.

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

Section 1. Section 613.17, Code 1981, is amended to read as follows:

613.17 EMERGENCY ASSISTANCE IN AN ACCIDENT. Any person, who in good faith renders emergency care or assistance without compensation ~~at the place of an emergency or accident,~~ shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness. For purposes of this section, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, or a volunteer emergency medical technician receives nominal compensation not based upon the value of the services performed, that person shall be considered to be receiving no compensation. The operation of a motor vehicle in compliance with section 321.231 by a volunteer fire fighter, volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, or volunteer emergency medical technician shall be considered rendering emergency care or assistance for purposes of this section.

Approved May 14, 1982

CHAPTER 1199

CREATION OF DEPARTMENT AND COMMISSION OF
WATER, AIR AND WASTE MANAGEMENT
H.F 2463

AN ACT to consolidate the management and regulation of water and air resources and waste by creating a department of water, air and waste management and a water, air and waste management commission; transferring to the department of water, air and waste management and the department of soil conservation the powers and duties of the Iowa natural resources council and the department of environmental quality and the powers and duties of the state department of health relating to private water systems and water wells and private sewage disposal systems; making corresponding amendments to the Code; and providing civil penalties for violations, and an effective date.

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

Section 1. Section 455B.1, subsections 1, 2, and 3, Code 1981, are amended to read as follows:

1. "Department" means the department of ~~environmental quality~~ water, air and waste management.

2. "Executive director" means the executive director of the department of ~~environmental quality~~ water, air and waste management or ~~his~~ a designee of the executive director.

3. "Commission" means the ~~environmental quality~~ water, air and waste management commission.

Sec. 2. Section 455B.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

There is created a department of ~~environmental quality~~ water, air and waste management. The chief administrative officer of the department ~~shall be~~ is the executive director ~~of environmental quality,~~ who shall be appointed by the governor, subject to confirmation by the senate, and serve at the governor's pleasure.

Sec. 3. Section 455B.4, subsections 1 and 6, Code 1981, are amended to read as follows:

1. There is created ~~an environmental quality~~ a water, air and waste management commission consisting of nine members, not more than five of whom shall be from the same political party. The members shall be appointed by the governor subject to confirmation by the senate. Each member of the commission must be an elector of the state, and have interest and knowledge of the subjects embraced in this chapter. The membership of the commission shall be as follows: Three members actively engaged in livestock and grain farming, a member actively engaged in the management of a manufacturing company, one member actively engaged in the business of finance or commerce, and four members who are electors of the state. The members of the commission shall be appointed to four-year, staggered terms of office commencing and ending as provided in section 69.19. Vacancies occurring during a term of office shall be filled by appointment for the balance of the unexpired term subject to confirmation by the senate. A commission member shall not be appointed to serve more than two consecutive four-year terms.

6. The executive director shall notify the secretary of agriculture, the commissioner of public health, the chief administrative officer of the department of soil conservation, ~~the director of the Iowa natural resources council,~~ the director of the state conservation commission, the Iowa geological survey, and the director of the state hygienic laboratory of the scheduled meetings of the commission.

Sec. 4. Section 455B.5, subsection 3, Code 1981, is amended to read as follows:

3. Adopt, modify, or repeal rules necessary to implement the provisions of this chapter and the rules deemed necessary for the effective administration of the department. A rule adopted under this chapter to carry out a federal regulation shall not become effective if the rule is more restrictive than required by the federal regulation unless the rule is approved by enactment of the general assembly. It is the intent of the general assembly that the commission exercise strict oversight of the operations of the department. The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of the provisions of this chapter. Rules adopted by the executive committee before January 1, 1981 shall remain effective until modified or rescinded by action of the commission.

Sec. 5. Section 455B.5, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Appoint a water coordinator who shall coordinate requests from the public for information or assistance relating to the administration of water resources laws and programs and the resolution of water-related problems.

Sec. 6. Section 455B.30, subsection 8, Code 1981, is amended by striking the subsection.

Sec. 7. Section 455B.30, subsection 19, Code 1981, is amended to read as follows:

19. "Public water supply system" means a system for the provision to the public of piped water for human consumption, if ~~such~~ the system has at least ~~fifteen~~ twenty service connections or regularly serves at least ~~twenty-five~~ one hundred individuals. ~~Such~~ The term includes any source of water and any collection, treatment, storage, and distribution facilities under control of the operator of ~~such~~ the system and used primarily in connection with ~~such~~ the system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with ~~such~~ the system.

Sec. 8. Section 455B.30, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Private water supply" means any water supply for human consumption which has less than twenty service connections or regularly serves less than one hundred individuals.

NEW SUBSECTION. "Private sewage disposal system" means a system for the treatment or disposal of domestic sewage from four or fewer dwelling units.

Sec. 9. Section 455B.31, Code 1981, is amended to read as follows:

455B.31 ADMINISTRATIVE AGENCY.

1. The department ~~shall be~~ is the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program.

2. The department is the state agency designated to carry out the state responsibilities related to private water supplies and private sewage disposal systems for the protection of the health of the citizens of this state. The commission shall adopt guidelines and provide model standards for private water supplies and private sewage disposal facilities for use of the local boards of health. Each local board of health is the agency to regulate private water supplies and private sewage disposal systems. Each local board of health shall adopt standards relating to the design and construction of private water supplies and private sewage disposal facilities.

Sec. 10. Section 455B.32, subsection 4, Code 1981, is amended by striking the subsection.

Sec. 11. Section 455B.45, subsection 1, Code 1981, is amended to read as follows:

1. The construction, installation or modification of any disposal system or public water supply distribution system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section. A permit shall be issued for the construction, installation or modification of a public water supply distribution system or part of a system if a qualified, registered engineer certifies to the commission that the plans for the system or part of the system meet the requirements of federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable federal laws and regulations.

Sec. 12. Section 455B.53, subsection 6, Code 1981, is amended to read as follows:

6. ~~Two members~~ One member who ~~shall not be~~ is not a certificated waterworks ~~operators~~ operator or certificated waste waterworks ~~operators~~ operator, but who shall be interested and knowledgeable in water supply or waste water collection and treatment, and who shall represent the general public.

Sec. 13. Section 455B.53, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. One member who is a director of the board of a rural water district established under chapter 357A or 504A.

Sec. 14. Chapter 455B, division III, Code 1981, is amended by adding sections 15 through 34 of this Act as a new part.

Sec. 15. NEW SECTION. DEFINITIONS. As used in this part of division III, unless the context otherwise requires:

1. "Flood plains" means the area adjoining a river or stream which has been or is covered by flood water.

2. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

3. "Surface water" means the water occurring on the surface of the ground.

4. "Ground water" means that water occurring beneath the surface of the ground.

5. "Diffused waters" means waters from precipitation and snowmelt which is not a part of any watercourse or basin including capillary soil water.

6. "Depleting use" means the storage, diversion, conveyance, or other use of a supply of water if the use may impair rights of lower or surrounding users, may impair the natural resources of the state, or may injure the public welfare if not controlled.

7. "Beneficial use" means the application of water to a useful purpose that inures to the benefit of the water user and subject to the user's dominion and control but does not include the waste or pollution of water.

8. "Nonregulated use" means the use of water for ordinary household purposes, use of water for poultry, livestock, and domestic animals, any beneficial use of surface flow from rivers bordering this state, any existing beneficial uses of water within the territorial boundaries of municipal corporations on May 16, 1957, and any other beneficial use of water by any person of less than twenty-five thousand gallons per day. However, industrial users of water, having their own water supply, within the territorial boundaries of municipal corporations, shall be regulated when their water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

9. "Regulated use" means any depleting use except a use specifically designated as a nonregulated use.

10. "Permit" means a written authorization issued by the department to a permittee which is limited as to quantity, time, place, and rate of diversion, storage, or withdrawal in accordance with the policies and principles of beneficial use as specified in this part.

11. "Permittee" means a person who obtains a permit from the department authorizing the person to take possession by diversion or otherwise and to use and apply an allotted quantity of water for a designated beneficial use, and who makes actual use of the water for that purpose.

12. "Waste" means any of the following:

a. Permitting ground water or surface water to flow, or taking it or using it in any manner so that it is not put to its full beneficial use.

b. Transporting ground water from its source to its place of use in such a manner that there is an excessive loss in transit.

c. Permitting or causing the pollution of a water-bearing strata through any act which will cause salt water, highly mineralized water, or otherwise contaminated water to enter it.

13. "Watercourse" means any lake, river, creek, ditch, or other body of water or channel having definite banks and bed with visible evidence of the flow or occurrence of water, except lakes or ponds without outlet to which only one landowner is riparian.

14. "Basin" means a specific subsurface water-bearing reservoir having reasonably ascertainable boundaries.

15. "Established average minimum flow" means the average minimum flow for a given watercourse at a given point determined and established by the commission. The "average minimum flow" for a given watercourse shall be determined by the following factors:

a. Average of minimum daily flows occurring during the preceding years chosen by the commission as more nearly representative of changing conditions and needs of a given drainage area at a particular time.

b. Minimum daily flows shown by experience to be the limit at which further withdrawals would be harmful to the public interest in any particular drainage area.

c. The minimum daily flows shown by established discharge records and experiences to be definitely harmful to the public interest.

The determination shall be based upon available data, supplemented, when available data are incomplete, with whatever evidence is available.

16. "Impounded or stored water" means that water captured and stored on the land by anyone taking it pursuant to this chapter, and the party impounding the water shall become the absolute owner of the stored water.

Sec. 16. NEW SECTION. DECLARATION OF POLICY.

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of the state in a single agency, the department, with the duty and authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1983, and ending December 31, 2003, utilizing a data base developed and managed by the Iowa geological survey, and prepare a general plan of water allocation in this state considering the types of water resources available in this state designed to meet the specific needs of the water users. The general welfare of the people of the state requires that the water resources of the state be put to beneficial use to the fullest extent possible, and that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation of water resources be encouraged with the view to their reasonable and beneficial use in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources be invested to the end that the best interests and welfare of the people are served.

2. Water occurring in a basin or watercourse, or other natural body of water of the state, is public water and public wealth of the people of the state and subject to use in accordance with this chapter, and the control and development and use of water for all beneficial purposes is vested in the state, which shall take measures to encourage full utilization and protection of the water resources of the state.

Sec. 17. NEW SECTION. DUTIES.

1. a. Not later than January 15, 1985, the commission shall deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions enacting a general plan of water allocation priorities for this state, considering the types of water resources available in the state and the water needs of all types of water users in this state, with a recommendation on the most effective means of implementation of the plan. It is the intent of this subsection that the general assembly shall bring the joint resolution to a vote in either chamber under a procedure or rule permitting no amendments except those of a purely corrective nature. If by the end of the fourth week of the 1985 regular session, the joint resolution embodying the plan is not approved by a constitutional majority in both chambers, the commission shall, by the end of the sixth week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions embodying a second plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for the failure of the first plan.

b. If, proceeding under a procedure or rule permitting amendments in the same manner as other joint resolutions, the joint resolution embodying the second plan is not adopted by a constitutional majority in both chambers by the end of the tenth week of the 1985 regular session, the commission shall, by the end of the eleventh week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions embodying a third plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for failure of the second plan. It is the intent of this subsection that the third joint resolution be subject to amendment in the same manner as other joint resolutions, and be adopted by the end of the 1985 Session, including any extraordinary sessions of the general assembly.

2. The commission shall designate the official representative of this state on all comprehensive water resources planning groups for which state participation is provided. The commission shall coordinate state planning with local and national planning and, in safeguarding the interests of the state and its people, shall undertake the resolution of any conflicts that may arise between the water resources policies, plans, and projects of the federal government and the water resources policies, plans, and projects of the state, its agencies, and its people. This section does not limit or supplant the functions, duties, and responsibilities of other state or local agencies or institutions with regard to planning of water-associated projects within the particular area of responsibility of those state or local agencies or institutions.

3. The commission shall enter into negotiations and agreements with the federal government relative to the operation of, or the release of water from, any project that has been authorized or constructed by the federal government when the commission deems the negotiations and agreements to be necessary for the achievement of the policies of this state relative to its water resources.

4. The commission, on behalf of the state, shall enter into negotiations with the federal government relative to the inclusion of conservation storage features for water supply in any project that has been authorized by the federal government when the commission deems the negotiations to be necessary for the achievement of the policies of this state, however, an agreement reached pursuant to these negotiations does not bind the state until enacted into law by the general assembly.

5. A water user who benefits from the development by the federal government of conservation storage for water supply shall be encouraged to assume the responsibility for repaying to the federal government any reimbursable costs incurred in the development, and a user who accepts benefits from the developments financed in whole or part by the state shall assume by contract the responsibility of repaying to the state the user's reasonable share of the state's obligations in accordance with a basis which will assure payment within the life of the development. An appropriation, diversion, or use shall not be made by a person of any waters of the state that have been stored or released from storage either under the authority of the state or pursuant to an agreement between the state and the federal government until the person has assumed by contract the person's repayment responsibility. However, this subsection does not infringe upon any vested property interests.

6. In its contracts with water users for the payment of state obligations incurred in the development of conservation storage for water supply, the commission shall include the terms deemed reasonable and necessary:

a. To protect the health, safety, and general welfare of the people of the state.

b. To achieve the purposes of this chapter.

c. To provide that the state is not responsible to any person if the waters involved are insufficient for performance.

The commission may designate and describe any such contract, and describe the relationships to which it relates, as a sale of storage capacity, a sale of water release services, a contract for the storage or sale of water, or any similar terms suggestive of the creation of a property interest. The term of the contracts shall be commensurate with the investment and use concerned, but the commission shall not enter into any such contract for a term in excess of the maximum period provided for water use permits.

7. The commission shall procure flood control works and water resources projects from or by cooperation with any agency of the United States, by cooperation with the cities and other subdivisions of the state under the laws of the state relating to flood control and use of water resources, and by cooperation with the action of landowners in areas affected by the works or projects when the commissioner deems the projects to be necessary for the achievement of the policies of this state.

8. The commission shall promote the policies set forth in this part and shall represent this state in all matters within the scope of this part. The commission shall adopt rules pursuant to chapter 17A as necessary to transact its business and for the administration and exercise of its powers and duties.

9. In carrying out its duties, the commission may accept gifts, contributions, donations and grants, and use them for any purpose within the scope of this part.

Sec. 18. NEW SECTION. JURISDICTION—DIVERSION OF WATER.

1. The commission has jurisdiction over the public and private waters in the state and the lands adjacent to the waters necessary for the purposes of carrying out this part. The commission may construct flood control works or any part of the works. In the construction of the works, in making surveys and investigations, or in formulating plans and programs relating to the water resources of the state, the commission may cooperate with an agency of another state or the United States, or with any other person.

2. Upon application by any person for permission to divert, pump, or otherwise take waters from any watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use, the executive director shall investigate the effect of the use upon the natural flow of the watercourse, the effect of the use upon the owners of any land which might be affected by the use, whether the use is consistent with the plan of water allocation priorities for this state, and shall hold a hearing.

3. Upon application by any person for approval of the construction or maintenance of any structure, dam, obstruction, deposit, or excavation to be erected, used, or maintained in or on the flood plains of any river or stream, the department shall investigate the effect of the construction or maintenance project on the efficiency and capacity of the floodway and on the plan of water allocation priorities for this state. In determining the effect of the proposal the department shall consider fully its effect on flooding of or flood control for any proposed works and adjacent lands and property, on the wise use and protection of water resources, on the quality of water, on fish, wildlife, and recreational facilities or uses, and on all other public rights and requirements.

Sec. 19. NEW SECTION. PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. If the department determines after due investigation that the diversion, storage, or withdrawal of water 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 may be affected, the department shall grant a permit for the diversion, storage, or withdrawal. Permits may be granted for any period of time not exceeding ten years except permits for the storage of water which may be granted for the life of the structure unless revoked by the commission. All existing storage permits are 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. A permit granted shall

remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until earlier date if the permit or any extension of the permit is modified or canceled under section 25 of this Act. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for any period of time not to exceed ten years.

Sec. 20. NEW SECTION. PRIORITY OF PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. In the consideration of applications for permits, priority in processing shall be given to persons in the order that the applications are received, except that this processing priority shall not affect the substantive priorities established under the plan of water allocation priorities for this state and except where the application of this priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. The executive director or the commission on appeal shall determine the duration and frequency of withdrawal and the quantity of water for which a permit may be granted. Any person with an existing irrigation system in use prior to May 16, 1957, shall be issued a permit to continue unless its use damages some other riparian user. In the consideration of applications for permits by regulated users, the plan of water allocation priorities for this state as adopted by the general assembly establishes standards for the determination of the disposition of the applications for permits. If there is competition for water, the use of water for irrigation has a lower priority than other beneficial uses of water subject to conditions which the commission may establish by rule. This part does not impair the vested right of any person.

Sec. 21. NEW SECTION. PERMITS FOR BENEFICIAL USE—PROHIBITIONS.

1. The executive director or the commission may issue a permit for beneficial use of water in a watercourse if the established average minimum water flow is preserved.

2. A use of water shall not be authorized if it will impair the effect of this chapter or any other pollution control law of this state.

3. A permit shall not be issued or continued if it will impair the navigability of any navigable watercourse.

Sec. 22. NEW SECTION. WHEN PERMIT REQUIRED.

1. A permit shall be required for the following:

a. A municipal corporation or a person supplying a municipal corporation which increases its water use in excess of one hundred thousand gallons or three percent, whichever is the greater, per day more than its highest per day beneficial use prior to May 16, 1957. The corporation or person shall make reasonable provision for the storage of water at times when the daily use of the water by the corporation or person is less than the amount specified in this subsection.

b. Except for a nonregulated use, a person using in excess of twenty-five thousand gallons of water per day, diverted, stored, or withdrawn from any source of supply except a municipal water system or any other source specifically exempted under this part.

c. A person who diverts water or any material from the surface directly into an underground watercourse or basin.

d. Industrial users of water having their own water supply within the territorial boundaries of municipal corporations when the water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

2. The commission may adopt, modify, or repeal rules pursuant to chapter 17A specifying the conditions under which the executive director may authorize specific nonrecurring minor uses of water for periods not to exceed one year through registration.

3. Notwithstanding any exemptions from permit requirements, nothing in this part exempts water users from requirements for reporting which the commission adopts by rule.

Sec. 23. NEW SECTION. TAKING WATER PROHIBITED. A person shall not take water from a natural watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use except in compliance with this part. However, existing uses may be continued during the period of the pendency of an application for a permit.

Sec. 24. NEW SECTION. RIGHTS PRESERVED. This part does not deprive any person of the right to use diffused waters, to drain land by use of tile, open ditch, or surface drainage, or to construct an impoundment on the person's property or across a stream that originates on the person's property if provision is made for safe construction and for a continued established average minimum flow when the flow is required to protect the rights of water users below.

Sec. 25. NEW SECTION. MODIFICATION OR CANCELLATION OF PERMITS. Each permit issued under this part is irrevocable for its term and for any extension of its term except as follows:

1. A permit may be modified or canceled by the department with the consent of the permittee.

2. Subject to appeal to the commission, a permit may be modified or canceled by the executive director if any of the following occur:

a. There is a breach of the terms of the permit.

b. There is a violation of the law pertaining to the permit by the permittee or the permittee's agents.

c. There is a circumstance of nonuse as provided in section 26 of this Act.

d. The department finds that modification or cancellation is necessary to protect the public health or safety, to protect the public interests in lands or waters, or to prevent substantial injury to persons or property in any manner. Before the modification or cancellation is effective, the department shall give at least thirty days' written notice mailed to the permittee at the permittee's last known address, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard on the proposal.

3. By written order to the permittee, the department may suspend operations under a permit if the executive director finds it necessary in an emergency to protect the public health, to protect the public interest in waters against imminent danger of substantial injury in any manner or to an extent not expressly authorized by the permit, or to protect persons or property against imminent danger. The department may require the permittee to take measures necessary to prevent or remedy the injury, but an order shall not be in effect for more than thirty days from the date of issue without giving the permittee at least ten days' written notice of the order and an opportunity to be heard on the order.

Sec. 26. NEW SECTION. TERMINATION OF PERMIT. The right of the permittee and the permittee's successors to the use of water shall terminate when the permittee or the permittee's successors fail for three consecutive years to use it for the specific beneficial purpose authorized in the permit and, after notification by the department of intent to cancel the permit for nonuse, the permittee or the permittee's successors fail to demonstrate adequate plans to use water within a reasonable time.

Sec. 27. NEW SECTION. DISPOSAL OF PERMIT. A permittee may sell, transfer, or assign a permit by conveying, leasing, or otherwise transferring the ownership of the land described in the permit, but the permit does not constitute ownership or absolute rights of use of the waters. The waters remain subject to the principle of beneficial use and the orders of the executive director or commission.

Sec. 28. NEW SECTION. UNAUTHORIZED DEPLETING USES. If a person files a complaint with the department that another person is making a depleting use of water not

expressly exempted as a nonregulated use under this part and without a permit to do so, the department shall cause an investigation to be made and if the facts stated in the complaint are verified the department shall order the discontinuance of the use.

Sec. 29. NEW SECTION. PROHIBITED ACTS—POWERS OF COMMISSION AND EXECUTIVE DIRECTOR.

1. A person shall not erect, use or maintain a structure, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances. However, this subsection does not apply to dams constructed and operated under the authority of chapter 469.

2. The department may commence, maintain, and prosecute any appropriate action to enjoin or abate a nuisance, including any of the nuisances specified in subsection 1 and any other nuisance which adversely affects flood control.

3. If a person desires to erect or make or to permit a structure, dam, obstruction, deposit or excavation, other than a dam constructed and operated under chapter 469, to be erected, made, used, or maintained in or on any floodway or flood plains, the person shall file a verified written application with the department, setting forth information as required by rule of the commission. The department, after an investigation, shall approve or deny the application imposing conditions and terms as prescribed by the department.

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a 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 department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated.

5. The department may remove or eliminate a structure, dam, obstruction, deposit, or excavation in a floodway which adversely affects the efficiency of or unduly restricts the capacity of the floodway, by an action in condemnation, and in assessing the damages in the proceeding, the appraisers and the court shall take into consideration whether the structure, dam, obstruction, deposit, or excavation is lawfully in or on the floodway in compliance with this part.

6. The department may require, as a condition of an approval order or permit granted pursuant to this part or chapter 469, the furnishing of a performance bond with good and sufficient surety, conditioned upon full compliance with the order or permit and the rules of the commission. In determining the need for and amount of bond, the department shall give consideration to the hazard posed by the construction and maintenance of the approved works and the protection of the health, safety, and welfare of the people of the state. This subsection does not apply to orders or permits granted to a governmental entity.

7. When approving a request to straighten a stream, the department may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within a minimum distance from the stream sufficient in the judgment of the director or commission to hold soil erosion to reasonable limits. The department shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land.

8. The commission shall establish, by rule, thresholds for dimensions and effects, and any structure, dam, obstruction, deposit, or excavation having smaller dimensions and effects than

those established by the commission is not subject to regulation under this section. The thresholds shall be established so that only those structures, dams, obstructions, deposits, or excavations posing a significant threat to the well-being of the public and the environment are subject to regulation.

Sec. 30. NEW SECTION. FLOOD PLAINS—ENCROACHMENT LIMITS. The commission may establish and enforce rules for the orderly development and wise use of the flood plains of any river or stream within the state and alter, change, or revoke the rules. The commission shall determine the characteristics of floods which reasonably may be expected to occur and may establish by order encroachment limits, protection methods, and minimum protection levels appropriate to the flooding characteristics of the stream and to reasonable use of the flood plains. The order shall fix the length of flood plains to be regulated at any practical distance, the width of the zone between the encroachment limits so as to include portions of the flood plains adjoining the channel, which with the channel, are required to carry and discharge the flood waters or flood flow of the river or stream, and the design discharge and water surface elevations for which protection shall be provided for projects outside the encroachment limits but within the limits of inundation. Plans for the protection of projects proposed for areas subject to inundation shall be reviewed as plans for flood control works within the purview of section 31 of this Act. An order establishing encroachment limits shall not be issued until due notice of the proposed order is given and opportunity for public hearing given for the presentation of protests against the order. In establishing the limits, the commission shall avoid to the greatest possible degree the evacuation of persons residing in the area of a floodway, the removal of residential structures occupied by the persons in the area of a floodway, and the removal of structures erected or made prior to July 4, 1965, which are located on the flood plains of a river or stream but not within the area of a floodway.

The commission shall cooperate with and assist local units of government in the establishment of encroachment limits, flood plain regulations, and zoning ordinances relating to flood plain areas within their jurisdiction. Encroachment limits, flood plain regulations, or flood plain zoning ordinances proposed by local units of government shall be submitted to the department for review and approval prior to adoption by the local units of government. Changes or variations from an approved regulation or ordinance as it relates to flood plain use are subject to approval by the commission prior to adoption. Individual applications, plans, and specifications and individual approval orders shall not be required for works on the flood plains constructed in conformity with encroachment limits, flood plain regulations, or zoning ordinances adopted by the local units of government and approved by the commission.

Sec. 31. NEW SECTION. FLOOD CONTROL WORKS COORDINATED. All flood control works in the state, which are established and constructed after the effective date of this Act, shall be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect the best flood control obtainable throughout the state. A person shall not construct or install works of any nature for flood control until the proposed works and the plans and specifications for the works are approved by the commission. The commission shall consider all the pertinent facts relating to the proposed works which will affect flood control and water resources in the state and shall determine whether the proposed works in the plans and specifications will be in aid of and acceptable as part of, or will adversely affect and interfere with flood control in the state, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, or adversely affect or interfere with the state comprehensive plan for water resources or an approved local water resources plan. In the event of disapproval, the commission shall set forth the objectionable features so that the proposed works and the plans and specifications for the proposed works may be corrected or adjusted to obtain approval.

This section applies to drainage districts, soil conservation districts, the state conservation commission, political subdivisions of the state, and private persons undertaking projects relating to flood control.

Sec. 32. NEW SECTION. PERMIT APPLICATION PROCEDURES.

1. The commission shall adopt, modify, or repeal rules establishing procedures by which permits required under this part shall be issued, suspended, revoked, modified, or denied. The procedures shall include provisions for application, an application fee sufficient to pay the administrative costs of the permit process, public notice and opportunity for public hearing, and contested cases.

2. Action by the department upon an application for a permit required under this part may be appealed to the commission by the applicant or any affected person within thirty days of the department's action. A hearing before the commission or its designee is a contested case. The hearings and judicial review of decisions of the commission shall be carried out in accordance with chapter 17A. Notwithstanding chapter 17A, petitions for judicial review may be filed in the district court of Polk county or of any county in which the property affected is located. If the commission, the district court, or the supreme court determines that the action of the commission shall be stayed, the petitioner shall file an appropriate bond approved by the court.

Sec. 33. NEW SECTION. VIOLATION.

1. The commission may issue any order necessary to secure compliance with or prevent a violation of this part or the rules adopted pursuant to this part. The attorney general shall, on request of the department, institute any legal proceedings necessary in obtaining compliance with an order of the commission.

2. A person who violates a provision of this part or a rule or order adopted or promulgated or the conditions of a permit issued pursuant to this part is subject to a civil penalty not to exceed five hundred dollars for each day that a violation occurs.

Sec. 34. NEW SECTION. COORDINATION WITH CONSERVANCY DISTRICTS. The commission and the boards of the conservancy districts established by chapter 467D shall coordinate their efforts in carrying out the purposes of this chapter and chapter 467D. In addition to other powers and duties conferred by law, the department shall:

1. Offer advice and assistance as appropriate to the boards of the several conservancy districts in the state in discharging their powers and duties.

2. Review and make recommendations as necessary to bring the plan of each of the conservancy districts, and any subsequent changes in the plan, into conformity with the statewide water resources plan established by the commission pursuant to section 17 of this Act.

3. Inform the board of any conservancy district of any of the following:

a. The receipt of each application for a permit to divert, store, or withdraw either surface or underground waters at any place within the district, filed with the executive director pursuant to this part.

b. The receipt of each application for approval of a proposed dam, obstruction, deposit, or excavation in or on any floodway or flood plain in the district, filed with the executive director pursuant to section 29 of this Act.

c. Any proposed order which would establish encroachment limits and zoning regulations on any flood plain in the district, filed with the executive director pursuant to section 30 of this Act.

d. The receipt of each application for approval of a proposed flood control structure or works, filed with the executive director pursuant to section 31 of this Act.

Sec. 35. Section 68B.2, subsection 4, Code 1981, is amended to read as follows:

4. "Regulatory agency" means department of agriculture, industrial commissioner, bureau of labor, occupational safety and health review commission, department of job service, department of banking, insurance department of Iowa, state department of health, department of public safety, department of public instruction, state board of regents, department of social services, department of revenue, Iowa state commerce commission, Iowa beer and liquor control department, board of pharmacy examiners, state conservation commission, state department of transportation, Iowa state civil rights commission, department of soil conservation, department of public defense, and department of ~~environmental quality and Iowa natural resources council~~ water, air and waste management.

Sec. 36. Section 83A.3, subsection 5, Code 1981, is amended to read as follows:

5. One member representing the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 37. Section 84.2, subsections 11, 12, 14, and 16, Code 1981, are amended to read as follows:

11. "Illegal oil" means oil which has been produced from any well within the state in excess of the quantity permitted by any rule or order of the ~~council~~ department.

12. "Illegal gas" means gas which has been produced from any well within this state in excess of the quantity permitted by any rule or order of the ~~council~~ department.

14. "Certificate of clearance" means a permit prescribed by the ~~council~~ department for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule or order requiring ~~such~~ the permit.

16. ~~"Council"~~ "Department" means ~~Iowa natural resources council as defined in chapter 455A~~ the department of soil conservation.

Sec. 38. Section 84.2, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Committee" means the state soil conservation committee.

Sec. 39. Section 84.4, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 41, section 3, is amended to read as follows:

The ~~council~~ department has the duty of administering this chapter. The state geologist shall act as administrator with the duty of enforcing the regulations and orders of the ~~council~~ department applicable to the crude petroleum oil and natural gas and metallic mineral resources of this state and the provisions of this chapter. The ~~council~~ department has the duty to make investigations it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action. The ~~council~~ department acting through the office of the state geologist has the authority:

Sec. 40. Section 84.4, subsection 1, paragraphs d, e, and i, Code 1981, are amended to read as follows:

d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with ~~the provisions of~~ this chapter, and the rules of the ~~council~~ committee prescribed to govern the production of oil and gas on state and private lands within the state of Iowa;

e. That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by ~~such~~ the means and upon ~~such~~ standards ~~as may be~~ prescribed by the ~~council~~ committee;

i. That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes native and indigenous Iowa produced crude oil or gas in this state shall keep and maintain within this state complete and accurate records of the quantities ~~thereof~~ of oil or gas, which records shall be available for examination by the ~~council or its agents~~ department at all reasonable times, and that every such person file with the ~~council such~~ department the reports ~~as~~ it may prescribe with respect to ~~such~~ the oil or gas or the products ~~thereof~~ of the oil or gas.

Sec. 41. Section 84.5, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 41, section 4, is amended to read as follows:

84.5 DRILLING PERMIT REQUIRED. It is unlawful to commence operations for the drilling of a well for oil or gas or the production of metallic minerals or to commence operations to deepen any well to a different geological formation without first giving the state geologist notice of intention to drill, and without first obtaining a permit from the state geologist, under rules prescribed by the ~~council~~ committee and paying to the ~~council~~ department a fee ~~of fifty dollars~~ established by rule of the department for the well. The fee shall be ~~used by the council for administering this chapter, including the payment of expenses incurred in publishing legal notice~~ deposited in the general fund of the state.

Sec. 42. Section 84.6, Code 1981, is amended to read as follows:

84.6 ~~COUNCIL~~ DEPARTMENT SHALL DETERMINE MARKET DEMAND AND REGULATE THE AMOUNT OF PRODUCTION. The ~~council~~ department shall determine market demand for each marketing district and regulate the amount of production as follows:

1. The ~~council~~ department shall limit the production of oil and gas within each marketing district to that amount which can be produced without waste, and which does not exceed the reasonable market demand.

2. ~~Whenever~~ When the ~~council~~ department limits the total amount of oil or gas which may be produced in the state or a marketing district, the ~~council~~ department shall allocate or distribute the allowable production among the pools ~~therein~~ in the district on a reasonable basis, giving, where reasonable under the circumstances to each pool with small wells of settled production, an allowable production which prevents the general premature abandonment of ~~such~~ the wells in the pool.

3. ~~Whenever~~ When the ~~council~~ department limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction were imposed, which limitation is imposed either incidental to, or without, a limitation of the total amount of oil or gas produced in the marketing district wherein the pool is located, the ~~council~~ department shall allocate or distribute the allowable production among the ~~several~~ wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonable avoidable drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.

4. In allocating the market demand for gas ~~as~~ between pools within marketing districts, the ~~council~~ department shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner ~~as~~ which will protect the reasonable use of its energy for oil production.

5. The ~~council shall~~ department is not ~~be~~ required to determine the reasonable market demand applicable to any single pool, except in relation to all other pools within the same marketing district, and in relation to the demand applicable to the marketing district. In allocating allowables to pools, the ~~council~~ department may consider, but ~~shall~~ is not ~~be~~ bound by nominations of purchasers to purchase from particular fields, pools, or portions thereof. The ~~council~~ department shall allocate the total allowable for the state in ~~such~~ a manner ~~as~~ which prevents undue discrimination between marketing districts, fields, pools, or portions thereof resulting from selective buying or nomination by purchasers.

Sec. 43. Section 84.7, unnumbered paragraph 1 and subsections 1 and 4, Code 1981, are amended to read as follows:

The ~~council~~ department shall set spacing units as follows:

1. When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the ~~council~~ department shall establish spacing units for a pool. Spacing units when established shall be of uniform size and shape for the entire pool,

except that when found to be necessary for any of the purposes above mentioned, the ~~council is authorized to~~ department may divide any pool into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone.

4. An order establishing units for a pool shall cover all lands determined or believed to be underlaid by ~~such~~ the pool, and may be modified by the state geologist from time to time to include additional areas determined to be underlaid by ~~such~~ the pool. When found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells or to protect correlative rights, an order establishing spacing units in a pool may be modified by the state geologist to increase the size of spacing units in the pool or any zone ~~thereof~~ of the pool, or to permit the drilling of additional wells on a reasonable uniform plan in the pool, or any zone ~~thereof~~ of the pool. Orders of the state geologist may be appealed to the ~~council~~ department within thirty days.

Sec. 44. Section 84.8, Code 1981, is amended to read as follows:

84.8 INTEGRATION OF FRACTIONAL TRACTS.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners ~~thereof~~ of the tracts may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the ~~council~~ department upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations ~~thereof~~ of the unit. Each ~~such~~ pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, ~~his~~ a just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes~~,~~ to be the conduct of ~~such~~ the operations upon each separately owned tract in the drilling unit by the several owners ~~thereof~~ of the unit. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from ~~such~~ the tract by a well drilled ~~thereon~~ on it.

2. Each ~~such~~ pooling order shall make provision for the drilling and operation of a well on the spacing unit, and for the payment of the reasonable actual cost ~~thereof~~ of the well by the owners of interests in the spacing unit, plus a reasonable charge for supervision. In the event of any dispute as to such costs the ~~council~~ department shall determine the proper costs. If ~~one or more of the owners~~ an owner shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner ~~or owners~~ so drilling or operating shall, upon complying with the terms of section 84.10, have a lien on the share of production from the spacing unit accruing to the interest of each of the other owners for the payment of ~~his~~ a proportionate share of ~~such~~ the expenses. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by ~~such~~ the lien as provided for in section 84.10.

Sec. 45. Section 84.9, Code 1981, is amended to read as follows:

84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID. An agreement for the unit or co-operative development and operation of a field or pool, in connection with the conduct of a repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas ~~in connection therewith~~, or any other method of operation, including water floods, ~~is authorized and~~ may be performed ~~and shall not be held or construed to violate~~ without being in violation of any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the ~~council~~ department as being in the public

interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. ~~Such~~ The agreements bind only the persons who execute them, and their heirs, successors, assigns, and legal representatives.

Sec. 46. Section 84.11, Code 1981, is amended to read as follows:

84.11 RULES COVERING PRACTICE BEFORE ~~COUNCIL~~ DEPARTMENT.

1. The ~~council~~ committee shall prescribe rules governing the practice and procedure before it.

2. ~~No~~ An order~~,~~ or amendment ~~thereof~~ of an order, except in an emergency, shall not be made by the ~~council~~ department without a public hearing upon at least ten days' notice. The public hearing shall be held at ~~such~~ the time and place ~~as may be~~ prescribed by the ~~council~~ committee, and any interested person ~~shall be~~ is entitled to be heard.

3. When an emergency requiring immediate action is found to exist the ~~council is authorized to~~ department may issue an emergency order without notice of hearing, which shall be effective upon promulgation. ~~No~~ An emergency order shall not remain effective for more than fifteen days.

4. Any notice required by this chapter shall be given at the election of the ~~council~~ department either by personal service or by letter to the last recorded address and one publication in a newspaper of general circulation in the state capital city and in a newspaper of general circulation in the county where the land affected~~,~~ or some part ~~thereof,~~ of the land is situated. The notice shall issue in the name of the state, shall be signed by the state geologist, shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the ~~council~~ department elect to give notice by personal service, ~~such~~ the service may be made by any officer authorized to serve process, or by any agent of the ~~council~~ department, in the same manner as is provided by law for the service of original notices in civil actions in the district court of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

5. All orders issued by the ~~council~~ department shall be in writing, shall be entered in full and indexed in books to be kept by the state geologist for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule or order certified by the state geologist or any officer of the ~~council~~ department shall be received in evidence in all courts of this state with the same effect as the original.

6. The ~~council~~ department may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the ~~council~~ department, the ~~council~~ department shall promptly fix a date for a hearing ~~thereon,~~ and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The ~~council~~ department shall enter its order within thirty days after the hearing.

Sec. 47. Section 84.12, Code 1981, is amended to read as follows:

84.12 SUMMONING WITNESSES, ADMINISTERING OATHS, REQUIRING PRODUCTION OF RECORDS—HEARING EXAMINERS APPOINTED.

1. The ~~council shall have the power to~~ department may summon witnesses, administer oaths, and require the production of records, books, and documents for examination at any hearing or investigation conducted. ~~No~~ A person shall not be excused from attending and testifying, or from producing books, papers, and records before the ~~council~~ department or a court, or from obedience to the subpoena of the ~~council~~ department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of ~~him~~ the person may tend to incriminate ~~him~~ the person or subject ~~him~~ the person to a penalty or forfeiture; ~~provided, that nothing herein contained shall be construed as requiring any~~. However this subsection does not require a person to produce any books, papers, or

records, or to testify in response to any inquiry not pertinent to some question lawfully before ~~such council~~ the department or court for determination. ~~No~~ A natural person ~~shall be subjected~~ is not subject to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of ~~his~~ objections, ~~he~~ the person may be required to testify or produce as evidence, documentary or otherwise, before the ~~council~~ department or court, or in obedience to subpoena; ~~provided, that no~~. However, a person testifying shall not be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the ~~council~~ department, or in case of the refusal of any witness to testify as to any matter regarding which ~~he~~ the witness may be interrogated, any court in the state, upon the application of the ~~council~~ department, may issue an attachment for ~~such~~ the person and compel ~~him~~ the person to comply with ~~such~~ the subpoena, and to attend before the ~~council~~ department and produce ~~such~~ the records, books, and documents, for examination, and to give ~~his~~ testimony. ~~Such~~ The courts ~~shall have the power to~~ may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify ~~therein~~.

3. The ~~council~~ department may appoint a hearing examiner or examiners to conduct hearings required by this chapter. When ~~so~~ appointed, ~~such~~ the hearing examiner ~~or examiners shall have and~~ may exercise all of the powers delegated to the ~~council~~ department by this section.

Sec. 48. Section 84.14, subsection 1, Code 1981, is amended to read as follows:

1. Judicial review of an action of the ~~council~~ department may be sought in accordance with the terms of ~~the Iowa administrative procedure Act~~ chapter 17A. Notwithstanding ~~the terms of the Iowa administrative procedure Act~~ that chapter, petitions for judicial review may be filed in the district court of Polk county or in the district court of any county in which the property affected or some portion ~~thereof~~ of the property is located.

Sec. 49. Section 84.14, subsections 2 and 3, Code 1981, are amended by striking the subsections.

Sec. 50. Section 84.15, subsections 1 and 2, Code 1981, are amended to read as follows:

1. The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, illegal gas, or illegal product is ~~hereby~~ prohibited. However, ~~no~~ a penalty by way of fine shall not be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, illegal gas, or illegal product unless:

a. ~~Such~~ The person knows, or is put on notice, of facts indicating that illegal oil, illegal gas, or illegal product is involved, ~~or~~.

b. ~~Such~~ The person fails to obtain a certificate of clearance with respect to ~~such~~ the oil, gas, or product where prescribed by order of the ~~council~~ department, or fails to follow any other method prescribed by an order of the ~~council~~ department for the identification of ~~such~~ the oil, gas or product.

2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale ~~as herein provided~~; seizure and sale to be in addition to any ~~and all~~ other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. ~~Whenever~~ When the ~~council~~ department believes that any oil, gas or product is illegal, the ~~council~~ department acting by the attorney general, shall bring a civil action in rem in the district court of the county where ~~such~~ the oil, gas, or product is found, to seize and sell the same, or the ~~council~~ department may include ~~such~~ an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by ~~any such~~ the action ~~shall have the right to~~ may intervene as an interested party in ~~such~~ the action.

Sec. 51. Section 84.16, Code 1981, is amended to read as follows:

84.16 PENALTIES.

1. Any person who violates any provision of this chapter, or any rule or order of the ~~council~~ department where no other penalty is provided ~~shall be~~ is guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the ~~council~~ department, ~~shall make~~ makes or ~~cause~~ causes to be made any false entry or statement in a report required by this chapter or by any ~~such~~ rule or order, or ~~shall make~~ makes or ~~cause~~ causes to be made any false entry in any record, account, or memorandum required by this chapter, or by any ~~such~~ rule or order, or ~~shall omit~~ omits, or ~~cause~~ causes to be omitted, from any ~~such~~ record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any ~~such~~ rule or order, or ~~shall remove~~ removes from this state or ~~destroy, mutilate, alter~~ destroys, mutilates, alters, or ~~falsify~~ falsifies any such record, account, or memorandum, ~~such~~ the person ~~shall be~~ is guilty of a fraudulent practice.

3. Any person knowingly aiding or abetting any other person in the violation of any provision of this chapter, or any rule or order of the ~~council shall be~~ department is subject to the same penalty as that prescribed by this chapter for the violation by ~~such~~ the other person.

Sec. 52. Section 84.17, Code 1981, is amended to read as follows:

84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLATION.

1. ~~Whenever~~ If it appears that any person is violating or threatening to violate any provision of this chapter, or any rule or order of the ~~council~~ department, the ~~council~~ department shall bring suit against ~~such~~ the person in the district court of any county where the violation occurs or is threatened, to restrain ~~such~~ the person from continuing ~~such~~ the violation or from carrying out the threat of violation. In ~~any such~~ the suit, the court ~~shall have~~ has jurisdiction to grant to the ~~council~~ department, without bond or other undertaking, ~~such~~ the prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.

2. If the ~~council shall fail~~ department fails to bring suit to enjoin a violation or threatened violation of any provision of this chapter, or any rule or order of the ~~council~~ department, within ten days after receipt of written request to do so by any person who is or will be adversely affected by ~~such~~ the violation, the person making ~~such~~ the request may bring suit in ~~his~~ the person's own behalf to restrain ~~such~~ the violation or threatened violation in any court in which the ~~council~~ department might have brought suit. The ~~council~~ department shall be made a party defendant in ~~such~~ the suit in addition to the person violating or threatening to violate a provision of this chapter, or a rule or order of the ~~council~~ department, and the action shall proceed and injunctive relief may be granted to the ~~council~~ department or the petitioner without bond in the same manner as if suit had been brought by the ~~council~~ department.

Sec. 53. Section 108.7, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Any action taken by the commission under ~~the provisions of~~ this section ~~shall be~~ is subject to the approval of the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 54. Section 109.15, Code 1981, is amended to read as follows:

109.15 INJURY TO DAM. It ~~shall be~~ is unlawful for any owner or ~~his~~ the owner's agent to remove or destroy any existing dam, or alter it in a way so as to lower the water level, without having received written approval from the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 55. Section 111.4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~No~~ A person, association or corporation shall not build or erect any pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind upon or over any state-owned land or water under the jurisdiction of the commission, without first obtaining from ~~such~~ the commission a written permit~~, provided, however, that~~. However, this provision ~~shall~~ does not apply to dams constructed and operated under ~~the authority of~~ chapter 469. ~~No such~~ A permit, in matters relating to or in any manner affecting flood control, shall not be issued without approval of the ~~Iowa natural resources council~~ department of water, air and waste management. ~~No~~ A person shall not maintain or erect any structure beyond the line of private ownership along or upon the shores of state-owned waters in ~~such~~ a manner ~~as~~ to obstruct the passage of pedestrians along the shore between the ordinary high-water mark and the water's edge, except by permission of the commission.

Sec. 56. Section 111.18, Code 1981, is amended to read as follows:

111.18 JURISDICTION. Jurisdiction over all meandered streams and lakes of this state and of state lands bordering thereon, not now used by some other state body for state purposes, is conferred upon the commission. The exercise of this jurisdiction ~~shall be~~ is subject to the approval of the ~~Iowa natural resources council~~ department of water, air and waste management in matters relating to or in any manner affecting flood control. The commission, with the approval of the executive council, may establish parts of ~~such~~ the property into state parks, and when so established all of the provisions of this chapter relative to public parks ~~shall~~ apply ~~thereto~~ to the property.

Sec. 57. Section 111.62, Code 1981, is amended to read as follows:

111.62 COPY TO ~~RESOURCES COUNCIL~~ DEPARTMENT. A copy of the petition and ~~such~~ the applications, plans, and specifications ~~as are~~ required under ~~the provisions of~~ chapter 455A shall be filed with the ~~Iowa natural resources council~~ department of water, air and waste management and any approval or permit required ~~thereunder~~ under chapter 455A shall be obtained prior to the establishment of ~~said~~ the water recreational area or the granting of a permit ~~therefor~~ for the area by the state conservation commission.

Sec. 58. Section 111D.1, Code 1981, is amended to read as follows:

111D.1 ACQUISITION BY OTHER THAN CONDEMNATION. The state conservation commission, the ~~Iowa natural resources council~~ department of water, air and waste management, any county conservation board, and any city or agency ~~thereof~~ of a city may acquire by purchase, gift, contract, or other voluntary means, but not by eminent domain, conservation easements in land to preserve scenic beauty, wildlife habitat, riparian lands, wet lands, or forests, promote outdoor recreation, or otherwise conserve for the benefit of the public the natural beauty, natural resources, and public recreation facilities of the state.

Sec. 59. Section 112.3, Code 1981, is amended to read as follows:

112.3 HEARING—DAMAGES. After ~~said~~ the approval the commission, if it wishes to proceed further with the project, shall, with the consent of the ~~Iowa natural resources council~~ department of water, air and waste management, fix a date of hearing not less than two weeks from date of approval of the plan. Notice of the day, hour and place of hearing, relative to proposed work, shall be provided by publication at least once a week for two consecutive weeks in some newspaper of general circulation published in the county where the project is located, or in the ~~county or~~ counties where the water elevations are affected, under the tentative plan approved. The last ~~of such~~ publication ~~or publications~~ shall not be less than five days prior to the day set for hearing. Any claim by any persons ~~whomsoever,~~ for damages which may be caused by ~~said~~ the project shall be filed with the commission at or prior to the time of the hearing ~~provided herein~~.

Sec. 60. WATER INFORMATION SYSTEM. By January 15, 1983, the state geologist shall prepare and submit to the general assembly a plan for a comprehensive water information system to be managed by the state geological survey for monitoring on a continuing basis

the quantity and quality of water resources in this state. In preparing this plan, the state geologist may request the assistance of the Iowa department of transportation, department of environmental quality, Iowa natural resources council, department of health, state conservation commission, and department of agriculture.

Sec. 61. Section 308.1, Code 1981, is amended to read as follows:

308.1 PLANNING COMMISSION. The Mississippi parkway planning commission shall be composed of ten members appointed by the governor, five members to be appointed for two-year terms beginning July 1, 1959, and five members to be appointed for four-year terms beginning July 1, 1959. In addition to the above members there shall be seven advisory ex officio members who shall be as follows: One member from the state transportation commission, one member from the state conservation commission, one member from the Iowa state soil conservation commission, one member from the state historical society of Iowa, one member from the faculty of the landscape architectural division of the Iowa ~~State University~~ state university of science and technology, one member from the Iowa development commission, and one member from the ~~natural resources council~~ department of water, air and waste management. Members and ex officio members shall serve without pay, but the actual and necessary expenses of members and ex officio members may be paid if the commission so orders and if the commission has funds available for ~~such~~ that purpose.

Sec. 62. Section 357A.1, subsection 7, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Department" means the department of water, air and waste management.

Sec. 63. Section 357A.5, Code 1981, is amended to read as follows:

357A.5 WHO MAY BE HEARD. At the hearing on the petition, any owner or occupant of land within the boundaries of the area described in the petition may appear, in person or by ~~his~~ a designated representative, and any representative of the ~~council~~ department may also appear, in favor of or in opposition to the incorporation and organization of the proposed district. ~~Such~~ The appearances may also be filed in writing prior to the time set for the hearing.

Sec. 64. Section 357A.12, Code 1981, is amended to read as follows:

357A.12 PLANS AND SPECIFICATIONS. As soon as reasonably possible after incorporation of a district, the board shall file with the supervisors and the ~~council~~ department copies of the plans and specifications for, and estimates of the cost of, any improvements authorized by this chapter which the board proposes to construct or acquire. The board shall determine a reasonable fee which each member shall pay for the privilege of utilizing the district's facilities which shall be known as a benefit unit. Benefit units may be classified. The board, by publication in a newspaper of general circulation in the district, shall generally describe the planned improvements, the area to be served and the fee members will be required to pay for each service connected to the water system.

Sec. 65. Section 357A.19, Code 1981, is amended to read as follows:

357A.19 NOT EXEMPT FROM OTHER REQUIREMENTS. ~~Nothing in this~~ This chapter ~~shall be construed to~~ does not exempt any district from the requirements of any other statute, whether enacted prior to or subsequent to July 1, 1970, under which the district is required to obtain the permission or approval of, or to notify, the ~~council~~ department, the Iowa commerce commission, or any other agency of this state or of any of its political subdivisions prior to proceeding with construction, acquisition, operation, enlargement, extension, or alteration of any works or facilities which the district is authorized to undertake pursuant to this chapter.

Sec. 66. Section 358.9, unnumbered paragraph 3, Code 1981, is amended to read as follows:

In cases where the state of Iowa owns at least four hundred acres of land contiguous to lakes

within ~~said~~ the district, ~~then and only then the Iowa natural resources council~~ the state conservation commission shall appoint two members of ~~said~~ the board of trustees in addition to the three members ~~hereinbefore~~ provided in this section. The additional two members shall be ~~qualified as follows: They shall be~~ United States citizens, not less than eighteen years of age, and ~~shall be~~ property owners within ~~said~~ the district. ~~In such cases the~~ The two additional appointive members shall have equal vote and authority with other members of trustees and shall hold office at the pleasure of the ~~Iowa natural resources council~~ state conservation commission.

Sec. 67. Section 358A.24, Code 1981, is amended to read as follows:

358A.24 CONFLICT WITH OTHER REGULATIONS. ~~Wherever~~ If the regulations made under ~~authority of~~ this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the ~~provisions of the~~ regulations made under ~~authority of~~ this chapter ~~shall~~ govern. ~~Wherever the provisions of~~ If any other statute or local ordinance or regulation ~~require~~ requires a greater width or size of yards, courts or other open spaces, or ~~require~~ requires a lower height of building or a less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or ~~impose~~ imposes other higher standards than are required by the regulations made under ~~authority of~~ this chapter, the ~~provisions of such~~ other statute or local ordinance or regulation ~~shall govern~~ governs. ~~Wherever any~~ If a regulation proposed or made under ~~authority of~~ this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the ~~Iowa natural resources council shall be~~ department of water, air and waste management is required to establish, amend, supplement, change, or modify ~~such~~ the regulation or to grant any variation or exception ~~therefrom~~ from the regulation.

Sec. 68. Section 414.21, Code 1981, is amended to read as follows:

414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES. ~~Wherever~~ If the regulations made under ~~authority of~~ this chapter require a greater width or size of yards, courts or other open spaces, or ~~require~~ a lower height of building or less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the ~~provisions of the~~ regulations made under ~~authority of~~ this chapter ~~shall~~ govern. ~~Wherever the provisions of~~ If any other statute or local ordinance or regulation ~~require~~ requires a greater width or size of yards, courts or other open spaces, or ~~require~~ a lower height of building or a less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under ~~authority of~~ this chapter, the ~~provisions of such~~ other statute or local ordinance or regulation ~~shall govern~~ governs. ~~Wherever any~~ If a regulation proposed or made under ~~authority of~~ this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the ~~Iowa natural resources council shall be~~ department of water, air and waste management is required to establish, amend, supplement, change or modify ~~such~~ the regulation or to grant any variation or exception ~~therefrom~~ from the regulation.

Sec. 69. Section 427.1, subsection 33, Code 1981, is amended to read as follows:

33. IMPOUNDMENT STRUCTURES. The impoundment structure and any land underlying an impoundment located outside any incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil conservation district commissioners of the county in which the impoundment structure and the impoundment are located. Any person owning land which qualifies for a property tax exemption under this subsection shall apply to the

county assessor each year before the first of July for the exemption. The application shall be made on forms prescribed by the department of revenue. The first application shall be accompanied by a copy of the water storage permit approved by the ~~water commissioner of the Iowa natural resources council~~ department of water, air and waste management and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption status. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil conservation district commissioners, to the board of supervisors for approval or denial. Any applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court. As used in this subsection, "impoundment" means any reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in such area; and "impoundment structure" means any dam, earthfill or other structure used to create an impoundment.

Sec. 70. Section 455.18, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Where the proposed district contemplates as its object flood control or soil conservance the engineer shall include in ~~his~~ the report data describing any soil conservance or flood control improvements, the nature ~~thereof~~ of the improvements, and ~~such~~ other ~~additional~~ data as ~~shall be~~ prescribed by the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 71. Section 455C.1, subsections 7, 8, and 9, Code 1981, are amended to read as follows:

7. "Director" means the executive director of the department of ~~environmental quality~~ water, air and waste management.

8. "Department" means the department of ~~environmental quality~~ water, air and waste management.

9. "Commission" means the ~~environmental quality~~ water, air and waste management commission of the department of ~~environmental quality~~ water, air and waste management.

Sec. 72. Section 467A.3, subsection 15, Code 1981, is amended by striking the subsection.

Sec. 73. Section 467A.4, subsections 1 and 3, Code 1981, are amended to read as follows:

1. There is ~~hereby~~ established, to serve as an agency of the state and to perform the functions conferred upon it in this chapter, the department of soil conservation. The department shall be administered in accordance with the policies of the state soil conservation committee, which shall approve administrative rules proposed by the department before the rules are ~~promulgated~~ adopted pursuant to chapter 17A. The state soil conservation committee shall consist of a chairperson and twelve members. The following shall serve as ex officio nonvoting members of the committee: The director of the state agricultural extension service, or the director's designee, the secretary of agriculture~~,~~ or the secretary's designee, the director of the state conservation commission or the director's designee, and the executive director of the ~~Iowa natural resources council~~ department of water, air and waste management or the executive director's designee. Eight voting members shall be appointed by the governor subject to confirmation by the senate. Six of the appointive members shall be persons engaged in actual farming operations, one of whom shall be a resident of each of the six conservancy districts established by section 467D.3, and no more than one of whom shall be a resident of any one county. The seventh and eighth appointive members shall be chosen by the governor

from the state at large with one appointed to be a representative of cities and one appointed to be a representative of the mining industry. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the above-mentioned members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons shall have no vote and shall serve in an advisory capacity only. ~~The director of the department of environmental quality shall be an ex officio nonvoting member.~~ The committee shall adopt a seal, which seal shall be judicially noticed, and may perform acts, hold public hearings, and ~~promulgate~~ adopt rules as provided in chapter 17A as necessary for the execution of its functions under this chapter.

3. The committee shall designate its chairperson, and may change ~~such~~ the designation. The members appointed by the governor shall serve for a period of six years. Members shall be appointed in each odd-numbered year to succeed members whose terms expire as provided by section 69.19. Appointments may be made at other times and for other periods as ~~are~~ necessary to fill vacancies on the committee. Members shall not be appointed to serve more than two complete six-year terms. Members designated to represent the secretary of agriculture, director of the state conservation commission, or the executive director of the ~~Iowa natural resources council~~ department of water, air and waste management shall serve at the pleasure of the officer making the designation. A majority of the voting members of the committee constitutes a quorum, and the concurrence of a majority of the voting members of the committee in any matter within their duties ~~shall be~~ is required for its determination. The chairperson and members of the committee, not otherwise in the employ of the state, or any political subdivision, shall receive forty dollars per diem as compensation for their services in the discharge of their duties as members of the committee. The committee shall determine the number of days for which any committee member may draw per diem compensation, but the total number of days for which per diem compensation is allowed for the entire committee shall not exceed four hundred days per year. They ~~shall~~ are also ~~be~~ entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties as members of the committee. The per diem and expenses paid to the committee members shall be paid from funds appropriated to the committee. The committee shall provide for the execution of surety bonds for all employees and officers who ~~shall be~~ are entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

Sec. 74. Section 467A.4, subsection 4, paragraph n, subparagraph (5), Code 1981, is amended by striking the subparagraph.

Sec. 75. Section 467C.5, Code 1981, is amended to read as follows:

467C.5 APPROVAL OF COMMISSIONERS. ~~No~~ A district shall not be established by any board of supervisors under this chapter unless the organization of ~~such~~ the district is approved by the commissioners of any soil conservation district established under the provisions of chapter 467A and which is included all or in part within ~~such~~ the district, nor shall any such district be established without the approval of the state conservation commission and the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 76. Section 467D.2, subsection 3, Code 1981, is amended by striking the subsection.

Sec. 77. Section 467D.6, subsections 1 and 11, Code 1981, are amended to read as follows:

1. Exercise ~~such~~ supervision over the water resources of the conservancy district, including water in any basin, watercourse, or other body of water in the conservancy district, and have authority to ~~promulgate~~ adopt and repeal, with approval of the department, and enforce ~~such~~ rules, except those rules relating to water resources under the authority of ~~the council and~~ the department of environmental quality, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

11. Maintain at its office a record of all the conservancy district's proceedings, rules and orders, and furnish copies ~~thereof~~ of them to the department and the ~~council~~ department of water, air and waste management upon request.

Sec. 78. Section 467D.16, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The board shall prepare a plan for accomplishment of the objectives of this chapter within the conservancy district. For this purpose the board may request and shall obtain from any state agency or political subdivision information which the agency or subdivision may have already collected which is pertinent to preparation of the plan, and may conduct ~~such~~ hearings ~~as~~ it deems necessary. The plan shall establish an order of priorities for carrying out projects necessary to accomplish the objectives of this chapter, shall conform as nearly as practicable to the comprehensive state-wide water resources plan established by the ~~council~~ department of water, air and waste management pursuant to section ~~455A.17~~ 17 of this Act and shall reflect the following general policies:

Sec. 79. Section 467D.17, Code 1981, is amended to read as follows:

467D.17 PLAN PRESENTED TO DEPARTMENT AND COUNCIL. The board shall tentatively adopt the plan by resolution and shall present the plan to the department and the ~~council~~ department of water, air and waste management for review. The ~~council~~ department of water, air and waste management shall within ninety days review the plan as presented and make ~~such~~ recommendations ~~as~~ which, in its discretion, it deems necessary to bring the conservancy district's plan into conformity with the comprehensive state-wide water resources plan established by the ~~council~~ department of water, air and waste management pursuant to section ~~455A.17~~ 17 of this Act. The department shall review the plan as presented and, with such amendments ~~as are~~ necessary to bring the plan into conformity with the state-wide water resources plan, give final approval within one hundred twenty days.

Sec. 80. Section 467D.19, Code 1981, is amended to read as follows:

467D.19 IMPLEMENTATION. After final approval of the plan, the board shall begin to implement the plan as expeditiously as possible, within the limitations of available appropriations and other financial resources. When implementation of the plan involves construction or improvement of any internal improvement by the conservancy district, the board may order the preparation of detailed plans and specifications, and a refined cost estimate. Upon completion of ~~such~~ the plans, specifications and cost estimate to ~~their~~ its satisfaction, the board shall adopt ~~the same~~ them, subject to the approval of the department, and shall let ~~the contract or~~ contracts ~~therefor~~ in accordance with section 467D.20. Any approval or permits from the ~~council~~ department of water, air and waste management required under other ~~provisions of~~ law shall be obtained by the conservancy district prior to initiation of any construction activity.

Sec. 81. Section 469.1, Code 1981, is amended to read as follows:

469.1 PROHIBITION—PERMIT. ~~No~~ A dam shall not be constructed, maintained, or operated in this state in any navigable or meandered stream for any purpose, or in any other stream for manufacturing or power purposes, nor shall any water be taken from ~~such~~ the streams for industrial purposes, unless a permit has been granted by the ~~Iowa natural resources council~~ department of water, air and waste management to the person, firm, corporation, or municipality constructing, maintaining, or operating the ~~same~~ dam.

Sec. 82. Section 469.2, unnumbered paragraph 1 and subsection 6, Code 1981, are amended to read as follows:

Any person, firm, corporation, or municipality making application for a permit to construct, maintain, or operate a dam in any of the waters, including canals, raceways, and other constructions necessary or useful in connection with the development and utilization of the water or water power, shall file with the ~~Iowa natural resources council~~ department

of water, air and waste management a written application, which shall contain the following information:

6. ~~Such~~ Any additional information ~~as may be~~ required by the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 83. Section 469.3, Code 1981, is amended to read as follows:

469.3 NOTICE OF HEARING. When ~~any~~ an application for a permit to construct, maintain, or operate a dam ~~from and~~ after the passage of this chapter is received, the ~~Iowa natural resources council~~ department of water, air and waste management shall fix a time for hearing, and it shall give notice of the time and place of ~~such~~ the hearing by publication once each week for two successive weeks in at least one newspaper in each county in which riparian lands will be affected by the dam.

Sec. 84. Section 469.4, Code 1981, is amended to read as follows:

469.4 HEARING. At the time fixed for ~~such~~ the hearing or at any adjournment ~~thereof~~ of the hearing, the ~~council~~ department of water, air and waste management shall take evidence offered by the applicant and any other person, either in support of or in opposition to the proposed construction.

Sec. 85. Section 469.5, Code 1981, is amended to read as follows:

469.5 WHEN PERMIT GRANTED. If it ~~shall appear~~ appears to the ~~council~~ department of water, air and waste management that the construction, operation, or maintenance of the dam will not materially obstruct existing navigation, ~~or~~ materially affect other public rights, ~~will not~~ or endanger life or public health, and any water taken from the stream in connection with the project, excepting water taken by a municipality for distribution in its water mains, is returned ~~thereto~~ to the stream at the nearest practicable place without being materially diminished in quantity ~~or~~, polluted or rendered deleterious to fish life, it shall grant the permit, upon ~~such~~ the terms and conditions as it may prescribe.

Sec. 86. Section 469.9, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Every person, firm, or corporation, ~~excepting~~ except a municipality, to whom a permit is granted to construct or to maintain and operate a dam already constructed in or across any stream for the purpose ~~herein~~ specified in this chapter, shall pay to the ~~Iowa natural resources council~~ department of water, air and waste management a permit fee of one hundred dollars and shall pay an annual inspection and license fee, to be fixed by the ~~Iowa natural resources council~~ water, air and waste management commission, on or before the first day of January, 1925, and annually thereafter, but in no case shall the annual inspection and license fee be less than twenty-five dollars. All fees shall be paid into the general fund of the state treasury.

Sec. 87. Section 469.10, Code 1981, is amended to read as follows:

469.10 CONSTRUCTION AND OPERATION. The ~~Iowa natural resources council~~ department of water, air and waste management shall investigate methods of construction, reconstruction, operation, maintenance, and equipment of dams~~, so as~~ to determine the best methods to conserve and protect as far as possible all public and riparian rights in the waters of the state and ~~so as~~ to protect the life, health, and property of the general public; and the method of construction, operation, maintenance, and equipment of ~~any and~~ all dams of any character or for any purpose in ~~such~~ the waters ~~shall be~~ is subject to the approval of the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 88. Section 469.11, Code 1981, is amended to read as follows:

469.11 ACCESS TO WORKS. ~~Such council or any member, agent, or employee thereof~~ The department of water, air and waste management shall at all times be accorded full access to all parts of any dam and its appurtenances being constructed, operated, or maintained in such waters.

Sec. 89. Section 469.12, Code 1981, is amended to read as follows:

469.12 DUTY TO ENFORCE STATUTES. ~~It shall be the duty of the council to~~ The department of water, air and waste management shall require that all existing statutes of the state, including ~~the provisions of~~ this chapter, with reference to the construction of dams, ~~shall be~~ are enforced.

Sec. 90. Section 469.26, Code 1981, is amended to read as follows:

469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person to whom a permit is issued under ~~the provisions of~~ this chapter does not begin the construction or the improvement of the dam or raceway within one year from the date of the granting of the permit, ~~his~~ the permit may be revoked by the ~~Iowa natural resources council~~ department of water, air and waste management, and if any permit holder does not finish and have in operation the plant for which the dam is constructed within three years after the granting of the permit, unless for good cause shown the ~~council~~ department has extended the time for completion, ~~such~~ the permit shall be forfeited.

Sec. 91. Section 469.29, Code 1981, is amended to read as follows:

469.29 PERMITS FOR EXISTING DAMS. All licenses and permits issued by the state executive council prior to April 17, 1949, or by the Iowa natural resources council prior to July 1, 1983, and in force immediately prior to July 1, 1983, are ~~hereby declared to be~~ in full force and effect and all of the powers of administration relating to licenses or permits ~~heretofore~~ issued are ~~hereby~~ vested in the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 92. Sections 93.2, 93.7, 93A.4, 101.10, 107.1, 136B.2, 170.10, 170A.8, 170B.9, 172D.1, 307.10, and 427.1, Code 1981, are amended by striking the words "department of environmental quality" and inserting in lieu thereof the words "department of water, air and waste management".

Sec. 93. Sections 307.10 and 427.1, Code 1981, are amended by striking the words "environmental quality commission" and inserting in lieu thereof the words "water, air and waste management commission".

Sec. 94. PRIOR ACTIONS.

1. A rule adopted, permit or order issued, or approval given under chapter 108, 109, 111, 112, 357A, 358A, 414, 427, 455A, 467A, 467C, or 467D, before the effective date of this Act and in force just prior to the effective date of this Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of environmental quality* or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

2. A rule adopted, permit or order issued, or approval given by the state department of health or the commissioner of public health relating to private water supply systems, private sewage disposal systems, or water wells under chapter 135, before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the department of environmental quality* or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

3. A rule adopted, permit or order issued or approval given under chapter 84 before the effective date of this Act and in force just prior to the effective date of this Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of soil conservation unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

4. A rule adopted, permit or order issued, or approval given by the environmental quality commission or the executive director of the department of environmental quality under chapter 455B before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the water, air and waste

*Water, air and waste management probably intended.

management commission or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

Sec. 95. EMPLOYEE TRANSFER OR TERMINATION. The employees of the Iowa natural resources council employed pursuant to chapter 455A and the employees of the department of environmental quality employed pursuant to chapter 455B are transferred to the department of water, air and waste management. After transfer of the employees under this section, any employee of the department of water, air and waste management whose duty assignment is terminated because of this Act may be reassigned to other duties or terminated. The Iowa merit employment commission shall adopt rules to carry out the transfer of employees under this section and to carry out subsequent reclassifications, reassignments, or terminations made necessary by this Act. The Iowa merit employment commission shall arbitrate and decide a written appeal made by an employee concerning a transfer, reassignment, reclassification, or termination made necessary by this Act. An employee shall not lose benefits accrued, including but not limited to salary, retirement, vacation, or sick leave because of transfer or reassignment.

Sec. 96. EFFECTIVE DATE—TRANSITION.

1. The effective date of this Act is July 1, 1983, except that sections 5, 60 and 98, and this section are effective on July 1, 1982.

2. After July 1, 1982, the governor may appoint the members of the water, air and waste management commission, appoint the executive director of the department of water, air and waste management, and may authorize the water, air and waste management commission to organize and plan for the transfer of powers, duties, records, equipment, personnel, and other property as applicable. The governor may select the executive director of the department of environmental quality or the director of the Iowa natural resources council to serve as executive director of the department of water, air and waste management without reappointment or confirmation.

3. Notwithstanding section 455B.4, the initial water, air and waste management commission shall have thirteen members. The membership shall include nine members of the environmental quality commission and four members of the Iowa natural resources council. Two members of the Iowa natural resources council shall be appointed by the governor to terms of office which expire on April 30, 1985, and two members shall be appointed by the governor to terms of office which expire on April 30, 1987. Effective May 1, 1985, the commission created under this Act shall have eleven members and effective May 1, 1987, the commission created under this Act shall have nine members. Except for the number of members, section 455B.4 shall apply to the operation of the commission created under this Act.

4. The members of the environmental quality commission shall serve concurrently as members of the commission created under this Act and the environmental quality commission until July 1, 1983, when the members shall continue to serve their unexpired terms as members of the environmental quality commission as members of the commission created under this Act. The members may be reappointed as provided in this Act.

5. The members of the Iowa natural resources council appointed to the commission created under this Act shall serve concurrently as members of the commission and the Iowa natural resources council until July 1, 1983, when the terms of office of the members of the Iowa natural resources council shall expire. The four members appointed to the commission shall continue to serve the terms to which appointed as provided in subsection 3. The members may be reappointed as provided in this Act.

6. If an executive director of the department of water, air and waste management is selected or appointed before July 1, 1983, the executive director shall cooperate with the Iowa natural resources council and the department of environmental quality in preparing for an orderly transfer of powers and duties, including representing the new department in

budgetary and appropriation matters. The executive director and the members of the water, air and waste management commission, appointed and authorized to exercise powers and duties before July 1, 1983, as provided in this section may be paid a salary or per diem as applicable and necessary expenses from funds appropriated to the department of environmental quality.

7. Notwithstanding section 455B.53, a director of the board of a rural water district established under chapter 357A or 504A shall not become a member of certification of waterworks and waste waterworks operators until the term of office of the first of the two members appointed to represent the general public expires.

Sec. 97. Chapter 455A and sections 84.13 and 135.20, Code 1981, are repealed.

Sec. 98. The legislative council shall create a bipartisan interim legislative oversight committee consisting of five members of the senate and five members of the house to study and make recommendations to the legislative council and the general assembly on matters related to statewide water resources planning, the development of a water resource data base, water use, flood plain management, and the organization and administration of water resource and flood plain management laws and programs in this state. The committee shall be authorized at least five meeting days and shall submit a report of its recommendations, including any necessary bill drafts to implement its recommendations, to the general assembly not later than January 15, 1983.

Approved May 18, 1982

CHAPTER 1200

EXEMPT RAILROAD CROSSINGS

H.F. 2485

AN ACT to allow the driver of a motor vehicle carrying passengers for hire, the driver of a school bus, or the driver of a vehicle carrying hazardous materials to proceed through certain designated railroad crossings.

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

Section 1. Section 321.343, unnumbered paragraph 2, Code 1981, is amended to read as follows:

No stop need be made at ~~any such~~ a crossing where a ~~police~~ peace officer or a traffic-control ~~signal~~ device directs traffic to proceed. No stop need be made at a crossing designated by an "exempt" sign. An "exempt" sign shall be posted only where the tracks have been partially removed on either side of the roadway.

Approved May 21, 1982

CHAPTER 1201

ESTHERVILLE SCHOOL BOARD LEGALIZING ACT

H.F. 2489

AN ACT to legalize the proceedings of the Estherville Community School Board relating to the sale of land.

WHEREAS, on June 7, 1960, the Estherville community school district sold real property which was subsequently forfeited back to the school district; and

WHEREAS, on July 13, 1964, the Estherville community school district agreed to and did in fact sell the same property to Vance J. Myler and his wife, Lois J. Myler, but failed to properly advertise the sale; and

WHEREAS, the property in question has since been sold to other parties and title is now held by First Federal Savings and Loan of Estherville and Emmetsburg which desires to sell the property but is prohibited from doing so because the sale by the Estherville community school board was not in accordance with law; NOW THEREFORE,

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

Section 1. That the sale of the property in question on July 13, 1964 to Vance J. Myler and his wife, Lois J. Myler, is validated, legalized, and confirmed and constitutes a valid, legal, and binding sale.

Approved May 22, 1982

CHAPTER 1202

DEPOSITS OF FUNDS BY PUBLIC ENTITIES

H.F. 2490

AN ACT relating to funds deposited by public entities in banks or bank offices.

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

Section 1. Section 453.1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 148, section 1, is amended to read as follows:

453.1 DEPOSITS IN GENERAL. All funds held in the hands of the following officers or institutions shall be deposited in banks first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for the county treasurer, recorder, auditor, sheriff, clerk of the district court, and judicial magistrate, by the board of supervisors; for the city treasurer, by the city council; for the county public hospital or merged

area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; and for an electric power agency as defined in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 31, section 7, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision shall invest all funds not needed for current operating expenses in time certificates of deposit in banks listed as approved depositories pursuant to this chapter or in investments permitted by section 452.10. The list of public depositories and the amounts severally deposited in the depositories shall be a matter of public record. The term "bank" means a bank or a private bank, as defined in section 524.103.

Sec. 2. Section 453.4, Code 1981, is amended to read as follows:

453.4 LOCATION OF DEPOSITORIES. Deposits by the treasurer of state shall be in banks located in this state; by a county officer or county public hospital officer or merged area hospital officer, in banks located in his county or in an adjoining county within this state; by a memorial hospital treasurer, in a bank located within this state which shall be selected by such memorial hospital treasurer and approved by the memorial hospital commission; by a city treasurer or other city financial officer, in banks or bank offices located in the city, but in the event there is no bank or bank office in such city then in any other bank or bank office located in this state which shall be selected as such depository by the city council; by a school treasurer or by a school secretary in a bank within this state which shall be selected by the board of directors or the trustees of such school district; by a township clerk in a bank located within this state which shall be selected by such township clerk and approved by the trustees of such township. Provided, that deposits may be made in banks outside of Iowa for the purpose of paying principal and interest on bonded indebtedness of any municipality when such deposit is made not more than ten days before the date such principal or interest becomes due.

Sec. 3. Section 454.2, Code 1981, is amended to read as follows:

454.2 PURPOSE OF FUND. The purpose of ~~said~~ the fund ~~shall be~~ is to secure the payment of their deposits to state, county, township, municipal, and school corporations, and electric power agencies as defined in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 31, section 7, having public funds deposited in demand or time deposits in any bank in this state, when ~~such~~ those deposits have been made by authority of and in conformity with the direction of the local governing council or board which is by law charged with the duty of selecting depository banks for ~~said~~ the funds.

Approved May 22, 1982

CHAPTER 1203

ECONOMIC RECOVERY TAX ACT EFFECT ON COMMUTATION OF IOWA NET INCOME

H.F. 2474

AN ACT to provide that those provisions of the Economic Recovery Tax Act of 1981 which are effective for tax years ending on or after January 1, 1981 shall be applicable for computing Iowa net income for that same tax year, effective upon publication.

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

Section 1. House File 2171, sections 1 and 11 enacted by the Sixty-ninth General Assembly, 1982 Session, which are retroactive to January 1, 1981 for tax years beginning on or after January 1, 1981 shall also be applicable for tax years ending on or after January 1, 1981 in computing Iowa net income under divisions II, III, and V of chapter 422 where the Economic Recovery Tax Act of 1981 provides for certain inclusions or exclusions in computing federal taxable income for a tax year ending on or after January 1, 1981.

Sec. 2. House File 2171, sections 5, 8, and 15 enacted by the Sixty-ninth General Assembly, 1982 Session, which are retroactive to January 1, 1981 for tax years beginning on or after January 1, 1981 shall also be applicable for tax years ending on or after January 1, 1981 in computing Iowa net income under divisions II, III, and V of chapter 422 where the Economic Recovery Tax Act of 1981 provides for certain inclusions or exclusions in computing federal taxable income for a tax year ending on or after January 1, 1981.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in the Midland Times, a newspaper published in Wyoming, Iowa, and in The Waterloo Courier, a newspaper published in Waterloo, Iowa.

Approved May 19, 1982

I hereby certify that the foregoing Act, House File 2474 was published in the Midland Times, Wyoming, Iowa on June 4, 1982 and in the Waterloo Courier published in Waterloo, Iowa on May 25, 1982.

Pursuant to the authority vested in the undersigned, Secretary of State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1981, there being no newspaper by the name of The Waterloo Courier, published in Waterloo, Iowa, I hereby designate the Waterloo Courier, published in Waterloo, Iowa to publish the foregoing Act, House File 2474.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1204

DOLLAR LIMITATION ON ADMINISTRATION OF SMALL ESTATES

H.F. 2453

AN ACT relating to the dollar limitation on the administration of certain small estates.

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

Section 1. Section 635.1, subsection 1, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 199, section 1, is amended to read as follows:

When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this state does not exceed ~~thirty~~ fifty thousand dollars in property subject to taxation under section 450.3, upon the petition of the spouse or a child of the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner letters of appointment of executor or administrator for administration of a small estate if either of the following occur:

Sec. 2. Section 635.1, subsection 2, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 199, section 1, is amended to read as follows:

When the gross value of the probate and nonprobate property of a decedent subject to the jurisdiction of this state does not exceed ~~ten~~ fifteen thousand dollars in property subject to taxation under section 450.3, upon the petition of a parent of the decedent the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occur:

Sec. 3. Section 635.1, subsection 3, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 199, section 1, is amended to read as follows:

When the entire estate of the decedent does not exceed the sum of ~~one~~ ten thousand dollars after deducting the debts, as defined in chapter 450, upon the petition of a person related within the fourth degree of consanguinity to the decedent, the clerk shall issue to a resident of the state of Iowa designated by the petitioner, letters of appointment as executor or administrator for administration of a small estate if either of the following occur:

Sec. 4. This bill applies to the administration of estates for persons dying on or after its effective date.

Approved May 17, 1982

CHAPTER 1205

TIME WHEN SALES TAX AND QUARTERLY REPORT DUE

H.F. 2475

AN ACT relating to the time the sales tax for the last semi-monthly period in a calendar quarter and the quarterly report are due and providing an effective date.

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

Section 1. Senate File 2080, section 3, enacted by the Sixty-ninth General Assembly, 1982 Session, is repealed.

Sec. 2. Senate File 2080, section 4 enacted by the Sixty-ninth General Assembly, 1982 Session, is amended to read as follows:

SEC. 4. Section 422.52, subsection 1, Code 1981, is amended to read as follows:

1. The tax levied under this division is due and payable in quarterly installments on or before the last day of the month following each quarterly period except as otherwise provided in this subsection. Every retailer who collects more than four thousand dollars in retail sales tax in a semi-monthly period shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected or an amount equal to not less than one-sixth of the tax collected and paid to the department during the preceding quarter, with a deposit form for the semi-monthly period as prescribed by the director. The first semi-monthly deposit form is for the period from the first of the month through the fifteenth of the month and is due on or before the twenty-fifth day of the month. The second semi-monthly deposit form is for the period from the sixteenth through the end of the month and is due on or before the tenth day of the month following the month of collection. A deposit is not required for the last semi-monthly period of the calendar quarter. The total quarterly amount, less the amount deposited for the five previous semi-monthly periods, is due with the quarterly report on the ~~fifteenth~~ last day of the month following the month of collection. A retailer who collects more than five hundred dollars in retail sales taxes in one month and not more than four thousand dollars in retail sales taxes in a semi-monthly period shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected or an amount equal to not less than one-third of the tax collected and paid to the department during the preceding quarter, with a deposit form for the month as prescribed by the director. The deposit form is due on or before the twentieth day of the month following the month of collection, except a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the quarterly report on the last day of the month following the month of collection. Every retailer who collects more than fifty dollars and not more than five hundred dollars in retail sales tax in one month shall deposit with the department or in a depository authorized by law and designated by the director, the amount collected, or an amount equal to not less than one-third of the tax collected and paid to the department during the last preceding quarter, with a deposit form for the month as prescribed by the director. The deposit form is due on or before the twentieth day of the month following the month of collection, except a deposit is not required for the third month of the calendar quarter and the total quarterly amount, less the amounts deposited for the first two months of the quarter, is due with the

quarterly report on the last day of the month following the month of collection. The monthly remittance procedure is optional for any sales tax permit holder whose average monthly collection of tax amounts to more than twenty-five dollars and less than fifty dollars. If the exact amounts of the taxes due or an amount equal to not less than one-third or one-sixth, as applicable, of the tax collected and paid to the department during the last preceding quarter on the deposit form are not ascertainable by the retailer, or would work undue hardship in the computation of the taxes due by the retailer, the director may provide by rules alternative procedures for estimating the amounts (but not the dates) due by the retailers. The forms prescribed by the director shall be referred to as "retailers semi-monthly tax deposit" or "retailers monthly tax deposit". Deposit forms shall be signed by the retailer or the retailer's duly authorized agent, and shall be duly certified by the retailer or agent to be correct. The director may authorize incorporated banks and trust companies or other depositories authorized by law which are depositories or financial agents of the United States, or of this state, to receive any tax imposed under this chapter, in the manner, at the times and under the conditions the director prescribes. The director shall prescribe the manner, times, and conditions under which the receipt of the tax by those depositories is to be treated as payment of the tax to the department.

Sec. 3. This Act takes effect January 1, 1983.

Approved May 13, 1982

CHAPTER 1206

STATE CORPORATE TAX DEDUCTION OF FEDERAL WINDFALL PROFITS TAXES
H.F. 2479

AN ACT to disallow the deduction of the federal windfall profits taxes in computing state corporate income taxes and making the Act take effect upon publication retroactive to January 1, 1981.

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

Section 1. Section 422.35, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 132, section 8, and House File 2171, enacted by the Sixty-ninth General Assembly, 1982 Session, sections 14 and 15, is amended by adding the following new subsection:

NEW SUBSECTION. Add the amount of windfall profits tax deducted under section 164(a) of the Internal Revenue Code of 1954.

Sec. 2. This Act is retroactive to January 1, 1981 for tax years beginning on or after January 1, 1981.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in The Council Bluffs Nonpareil, a newspaper published in Council Bluffs, Iowa, and in the Fort Madison Daily Democrat, a newspaper published in Fort Madison, Iowa.

Approved May 19, 1982

I hereby certify that the foregoing Act, House File 2479 was published in The Council Bluffs Nonpareil, Council Bluffs, Iowa on May 30, 1982 and in the Fort Madison Daily Democrat, Fort Madison, Iowa on May 27, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1207

RAILROAD PROPERTY

H.F. 2334

AN ACT relating to railroad property by providing that before a railroad corporation or trustee of a railroad corporation may sell real property adjacent to a railroad right-of-way, the corporation or trustee must offer to sell that property at fair market value to persons holding leases, licenses, or permits upon that property, by providing that real property received by the railroad for the purpose of aiding in the construction, maintenance, and continued operation of its railway shall only be held as long as it is used for those purposes, by providing for the handling of disagreements between owners, lessees, or licensees of certain buildings or other improvements on present or former railroad property and a railroad's grantee or successor in interest, by providing that the value of property of a railway corporation which has been declared bankrupt or is in bankruptcy proceedings is not part of the tax base of the taxing district only for purposes of computing the levy rate and the amount to be received from the foundation property tax levy, and making it effective upon publication.

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

Section 1. Section 327E.1, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any such railway corporation may take and hold voluntary grants of real estate and other property as are made to it to aid in the construction, maintenance, and continued operation of its railway. However, all real estate so received shall be held only as long as the real estate is used for the construction, maintenance, and continued operation of a railway.

Sec. 2. Section 327G.62, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 22, section 22, is amended to read as follows:

327G.62 BUILDINGS OR OTHER IMPROVEMENTS ON RAILROAD LANDS. When a disagreement arises between a railroad corporation, its grantee, or successor in interest and the owner, lessee, or licensee of any building or other improvement, including trackage, used for receiving, storing, transporting, or manufacturing any article of commerce transported or to be transported, situated on ~~the~~ a present or former railroad ~~right of way~~ right-of-way or any land owned or controlled by the railroad corporation ~~for railroad purposes~~, its grantee, or successor in interest, as to the terms and conditions on which the same is to be continued thereon or removed therefrom, ~~such~~ the railway corporation, its grantee, or successor in interest or ~~person~~ owner, lessee, or licensee may make written application to the authority and the authority shall hear and determine ~~such~~ the controversy and make ~~such~~ an order ~~in relation thereto~~ as shall be just and equitable between the parties, which order shall be enforced in the same manner as other orders of the authority.

Sec. 3. Chapter 327G, Code 1981, is amended by adding the following new sections as sections 327G.78 and 327G.79:

NEW SECTION. 327G.78 SALE OF RAILROAD PROPERTY. Subject to sections 327G.77, 471.16, and 471.17, when a railroad corporation, its trustee, or successor in interest

have interests in real property adjacent to a railroad right-of-way that are abandoned by order of the interstate commerce commission, reorganization court, bankruptcy court, or the authority or are otherwise abandoned as defined by section 471.15, or when a railroad corporation, trustee, or successor in interest seeks to sell its interests in that property under any other circumstance, the railroad corporation or trustee shall extend a written offer to sell at a fair market value price to the persons holding leases, licenses, or permits upon those properties, allowing sixty days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the authority to resolve the disagreement. The application shall be made within sixty days from the time an initial written response is served upon the railroad corporation, trustee, or successor in interest by the person wishing to purchase the property. The authority shall hear the controversy and make a final determination of the fair market value of the property and the other terms of the transaction which were in dispute within ninety days after the application is filed. All correspondence shall be by certified mail.

The decision of the authority shall be binding on the parties, except that a person who seeks to purchase such real property may withdraw the offer to purchase within thirty days of the authority's decision. If such a withdrawal is made, the railroad corporation, trustee, or successor in interest may sell or dispose of the real property without further order of the authority.

NEW SECTION. 327G.79 VALUING RAIL PROPERTY. The authority's determination and order shall be just and equitable and in the case of the determination of the fair market value of the property, shall be based in part upon at least three independent appraisals prepared by certified appraisers. Each party shall select one appraiser and each appraisal shall be paid for by the party for whom the appraisal is prepared. The two appraisers shall select a third appraiser and the costs of this appraisal shall be divided equally between the parties. If the appraisers selected by the parties cannot agree on selection of a third appraiser, the authority shall appoint a third appraiser and the costs of this appraisal shall be divided equally between the parties.

The authority's determination and order shall be final for the purpose of administrative review to the district court as provided in chapter 17A. The district court's scope of review shall be confined to whether there is substantial evidence to support the authority's determination and order.

For purposes of this section and section 327G.78, "authority" means the transportation regulation authority.

Sec. 4. Section 442.2, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. For purposes of section 442.1, the "amount per pupil of foundation property tax" and the "money raised by the foundation property tax" do not include the tax levied under subsection 1 on the property of a railway corporation or its trustee which corporation has been declared bankrupt or is in bankruptcy proceedings.

Sec. 5. Section 444.3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

When the valuations for the several taxing districts shall have been adjusted by the several boards for the current year, the county auditor shall thereupon apply such a rate, not exceeding the rate authorized by law, as will raise the amount required for such taxing district, and no larger amount. For purposes of computing the rate under this section, the adjusted taxable valuation of the property of a taxing district does not include the valuation of property of a railway corporation or its trustee which corporation has been declared bankrupt or is in bankruptcy proceedings. Nothing in the preceding sentence exempts the property of such railway corporation or its trustee from taxation and the rate computed under this section shall be levied on the taxable property of such railway corporation or its trustee.

Sec. 6. Sections 4 and 5 of this Act are effective for fiscal years beginning on or after July 1, 1983.

Sec. 7. This Act, being deemed of immediate importance, takes effect from and after its publication in The Red Oak Express, a newspaper published in Red Oak, Iowa, and in the Carroll Daily Times-Herald, a newspaper published in Carroll, Iowa.

Approved May 21, 1982

I hereby certify that the foregoing Act, House File 2334 was published in The Red Oak Express, Red Oak, Iowa on May 28, 1982 and in the Carroll Daily Times-Herald, Carroll, Iowa on May 26, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1208

REVENUE BONDS TO FINANCE GRAIN AND SOYBEAN STORAGE FACILITIES

S.F. 2312

AN ACT authorizing cities and counties to issue revenue bonds to finance the acquisition of grain and soybean storage facilities and making it effective upon publication.

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

Section 1. Chapter 419, Code 1981, is amended by adding the following new section:

NEW SECTION. In order to provide greater sources of financing and to encourage an increase in the capacity of grain and soybean storage facilities within the state, cities and counties may issue revenue bonds, to be originally purchased by financial institutions or other bond purchasers which are located within the city or county issuing the bonds, to finance the acquisition of grain and soybean storage facilities which may be located anywhere within the state. The revenue bonds shall be issued pursuant to this chapter and all provisions of this chapter shall apply except that the term "project" as defined in section 419.1 includes on-farm grain and soybean storage facilities, which facilities may include the grain or soybean drying and aerating equipment, and the project need not be located within the city or county issuing the revenue bonds.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Eldora Herald-Ledger, a newspaper published in Eldora, Iowa, and in The Fairfield Ledger, Inc., a newspaper published in Fairfield, Iowa.

Approved May 11, 1982

I hereby certify that the foregoing Act, Senate File 2312 was published in the Eldora Herald-Ledger, Eldora, Iowa on May 18, 1982 and in The Fairfield Daily Ledger, Inc., Fairfield, Iowa on May 24, 1982.

Pursuant to the authority vested in the undersigned, Secretary of State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1981, there being no newspaper by the name of The Fairfield Ledger, Inc., published in Fairfield, Iowa, I hereby designate the corporate name of The Fairfield Daily Ledger, Inc., published in Fairfield, Iowa to publish the foregoing Act, Senate File 2312.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1209

JUVENILE JUSTICE CODE AMENDMENTS

H.F. 2460

AN ACT amending the juvenile justice code to allow children sixteen years of age or older under certain circumstances to waive representation by legal counsel when initially taken into custody, to allow oral court orders for temporary placements in shelter care or detention facilities, to add a cross-reference to a code section containing conditions of release, to require a written record of any oral complaint received, to provide that complaints of serious offenses allegedly committed by children fourteen years of age or older are public records, to provide a penalty for false reports of child abuse, to provide for victim restitution under informal adjustments and consent decrees, to allow notice of shelter care or detention hearings to be other than personal notice, to clarify that shelter care and detention notice and hearing requirements do not apply to temporary and emergency removals of children in need of assistance, to allow termination of child abuse investigations by the department of social services, to authorize the presence of a parent, guardian or custodian at a child's counseling session, to delay the automatic termination beyond the age of eighteen of certain dispositional orders, to provide for the removal of an alleged sexual offender from a child's household, to provide for inpatient examination under certain conditions prior to adjudication as a child in need of assistance, to provide disclosure of certain information to the victim of the delinquent act, to allow the taking and filing of fingerprints and photographs of children in felony cases, to provide for the sealing of juvenile court and law enforcement records in certain cases involving serious offenses only if in the best interests of the child and the public, and to make nonsubstantive, technical changes in the juvenile justice code.

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

Section 1. Section 232.2, subsection 7, Code 1981, is amended to read as follows:

7. "Complaint" means ~~a verbal~~ an oral 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.

Sec. 2. Section 232.11, subsection 2, Code 1981, is amended to read as follows:

2. The child's right to be represented by counsel under subsection 1, paragraphs "b" to "f" of this section shall not be waived by a child of any age. The child's right to be represented by counsel under subsection 1, paragraph "a" shall not be waived by ~~the~~ a child less than sixteen years of age without the written consent of the child's parent, guardian, or custodian. The waiver by a child who is at least sixteen years of age is valid only if a good faith effort has been made to notify the child's parent, guardian, or custodian that the child has been taken into custody and of the alleged delinquent act for which the child has been taken into custody, the location of the child, and the right of the parent, guardian, or custodian to visit and confer with the child.

Sec. 3. Section 232.21, subsection 4, Code 1981, is amended to read as follows:

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~~ an oral or written court order authorizing ~~such~~ the

shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c" shall not be held in excess of seventy-two hours in any event.

Sec. 4. Section 232.22, subsection 1, paragraph c, Code 1981, is amended to read as follows:

c. There is probable cause to believe that the child has violated conditions of release imposed under section ~~232.54~~ ~~or~~ 232.44, subsection 5, paragraph "b", 232.52, or 232.54 and there is a substantial probability that the child will run away or otherwise be unavailable for subsequent court appearance; or

Sec. 5. Section 232.22, subsections 3 and 4, Code 1981, are amended to read as follows:

3. ~~No~~ A child shall not be held in a facility under subsection 2, paragraphs "a" ~~and~~ or "b" for a period in excess of twenty-four hours without ~~a~~ an oral or written court order authorizing ~~such~~ the detention. When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

4. ~~No~~ A child shall not be detained in a facility under subsection 2, paragraph "c" for a period in excess of twelve hours without the oral or written order of a judge or a magistrate authorizing ~~such~~ the detention. When the detention is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order.

Sec. 6. Section 232.28, subsections 1 and 2, Code 1981, are amended to read as follows:

1. Any person having knowledge of the facts may file a complaint with the court or its designee alleging that a child has committed a delinquent act. A written record shall be maintained of any oral complaint received.

2. The Court or its designee shall refer the complaint to an intake officer who shall consult with law enforcement authorities having knowledge of the facts and conduct a preliminary inquiry to determine what action should be taken.

Sec. 7. Section 232.28, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. A complaint filed with the court or its designee pursuant to this section which alleges that a child fourteen years of age or older has committed a delinquent act which if committed by an adult would be an aggravated misdemeanor or a felony shall be a public record and shall not be confidential under section 232.147.

Sec. 8. Section 232.29, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. An informal adjustment agreement may require the child to perform a work assignment of value to the state or to the public or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim.

Sec. 9. Section 232.44, subsection 3, Code 1981, is amended to read as follows:

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 and in a manner calculated fairly to apprise the parties of the time, place, and purpose of the hearing. 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~~ the notice having been served.

Sec. 10. Section 232.44, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. This section does not apply to a child placed in accordance with section 232.78, 232.79, or 232.95.

Sec. 11. Section 232.46, subsection 1, Code 1981, is amended to read as follows:

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, 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 and may include the requirement that the child perform a work assignment of value to the state or to the public or make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim.

Sec. 12. Section 232.53, subsection 2, Code 1981, is amended to read as follows:

2. All dispositional orders entered prior to the child attaining the age of seventeen years and six months shall automatically terminate when the child becomes eighteen years of age, ~~except that in~~. Dispositional orders entered subsequent to the child attaining the age of seventeen years and six months and prior to the child's eighteenth birthday shall automatically terminate one year after the date of disposition. In the case of an adult within the jurisdiction of the court under the provisions of section 232.8, subsection 1, the dispositional order shall automatically terminate one year after the last date upon which jurisdiction could attach.

Sec. 13. Section 232.71, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If a fourth report is received from the same person who made three earlier unsubstantiated reports which identified the same child as the abused child and the same person responsible for the child as the alleged abuser, the department may determine that the report is spurious, unfounded, or frivolous and may in its discretion terminate its investigation.

Sec. 14. Chapter 232, Code 1981, is amended by adding the following new section immediately after section 232.81:

NEW SECTION. REMOVAL OF SEXUAL OFFENDERS FROM THE RESIDENCE PURSUANT TO COURT ORDER.

1. Notwithstanding section 561.15, if it is alleged by a person authorized to file a petition under section 232.87, subsection 2, or by the court on its own motion that a parent, guardian, custodian, or an adult member of the household in which a child resides has committed a sexual offense with or against the child, pursuant to chapter 709 or section 726.2, the juvenile court may enter an ex parte order requiring the alleged sexual offender to vacate the child's residence upon a showing that probable cause exists to believe that the sexual offense has occurred and that the presence of the alleged sexual offender in the child's residence presents a danger to the child's life or physical, emotional, or mental health.

2. If an order is entered under subsection 1 and a petition has not yet been filed under this chapter, the petition shall be filed under section 232.87 by the county attorney, the department of social services, or a probation officer within three days of the entering of the order.

3. The juvenile court may order on its own motion, or shall order upon the request of the alleged sexual offender, a hearing to determine whether the order to vacate the residence should be upheld, modified, or vacated. The juvenile court may in any later child in need of assistance proceeding uphold, modify, or vacate the order to vacate the residence.

Sec. 15. Section 232.98, subsection 1, Code 1981, is amended to read as follows:

1. A physical or mental examination of the child may be ordered only after the filing of a petition pursuant to section 232.87 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 shall be conducted on an outpatient basis when possible, but if necessary the court may ~~be performed on an outpatient basis only.~~ commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed fifteen days if all of the following are found to be present:

a. Probable cause exists to believe that the child is a child in need of assistance pursuant to section 232.2, subsection 5, paragraph e or f.

b. Commitment is necessary to determine whether there is clear and convincing evidence that the child is a child in need of assistance.

c. The child's attorney agrees to the commitment.

PARAGRAPH DIVIDED. An examination ordered after adjudication shall be conducted on an outpatient basis ~~whenever~~ when possible, but if necessary the court may commit the child to a suitable nonsecure hospital, facility, or institution for the purpose of examination for a period not to exceed thirty days. ~~The civil commitment provisions of chapter 229 shall not apply to such commitments.~~

The child's parent, guardian, or custodian shall be included in counseling sessions offered during the child's stay in a hospital, facility, or institution when feasible, and when in the best interests of the child and the child's parent, guardian, or custodian. If separate counseling sessions are conducted for the child and the child's parent, guardian, or custodian, a joint counseling session shall be offered prior to the release of the child from the hospital, facility, or institution.

Sec. 16. Section 232.147, subsection 5, Code 1981, is amended to read as follows:

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 subsection or chapter.

If an informal adjustment of a complaint is made pursuant to section 232.29, the intake officer shall disclose to the victim of the delinquent act, upon the request of the victim, the name and address of the child who committed the delinquent act.

Sec. 17. Section 232.148, Code 1981, is amended to read as follows:

232.148 FINGERPRINTS—PHOTOGRAPHS.

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal justice agency after ~~he or she~~ the child 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 and photographs 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. However, fingerprint and photograph files of a child who enters into an informal adjustment or consent decree shall be retained only if the child is notified at the time of entering into the informal adjustment or consent decree that the files will be permanently retained by the criminal justice agency.

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 and photograph files of children shall be kept separate from those of adults. Copies of fingerprints and photographs of a child shall not be placed in any data storage system established and maintained by the department of public safety pursuant to chapter 692, or in any federal depository for fingerprints.

5. Fingerprint and photograph 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 and photographs of a child shall be removed from the file and destroyed if any of the following situations apply:

a. A petition alleging the child to be delinquent is not filed; ~~or~~ and the child has not entered into an informal adjustment, admitting involvement in a delinquent act alleged in the complaint.

b. After a petition is filed, the petition is dismissed or the proceedings are suspended and the child ~~is found by the court not to be delinquent; or~~ has not entered into a consent decree and has not been adjudicated delinquent on the basis of a delinquent act other than one alleged in the petition in question.

c. Upon petition by the child when ~~he or she~~ the child reaches twenty-one years of age and ~~he or she~~ the child 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. 18. Section 232.150, subsection 1, Code 1981, is amended to read as follows:

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 232.147 and 232.149 sealed if the court finds ~~that~~ all of the following:

a. Two years have elapsed since the final discharge of ~~such~~ the person or since the last official action in ~~his or her~~ the person's case if there was no adjudication and disposition; ~~and~~.

b. ~~Such~~ The 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.

However, if the person was adjudicated delinquent for an offense which if committed by an adult would be an aggravated misdemeanor or a felony, the court shall not order the records in the case sealed unless, upon application of the person or upon the court's own motion and after hearing, the court finds that paragraphs a and b apply and that the sealing is in the best interests of the person and the public.

Sec. 19. Section 708.7, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Reports or causes to be reported false information to the department of social services, alleging that a person has abused a child, knowing that the information is false, or who reports the alleged occurrence of child abuse knowing that the child abuse did not occur.

Approved May 12, 1982

CHAPTER 1210

OFFICE FOR PLANNING AND PROGRAMMING DUTIES

S.F. 2216

AN ACT relating to the duties of the office for planning and programming.

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

Section 1. Chapter 7A, Code 1981, is amended by adding sections 2 through 4 of this Act.

Sec. 2. NEW SECTION. IOWA YOUTH CORPS ESTABLISHED. An Iowa youth corps is established in this state. The objectives of the youth corps are to provide meaningful and productive public service jobs for youth, assist youth in securing unsubsidized employment, and develop opportunities for youth to engage in volunteer community service activities. The general assembly intends that participation in the youth corps will provide youth with an opportunity to explore careers, gain needed work experience, and contribute to the general welfare of their communities and state. The youth corps shall provide the following programs:

1. A public service employment program for disadvantaged and handicapped youth attending school.
2. A summer employment program for youth of all economic classifications.
3. A youth volunteer program.

Sec. 3. NEW SECTION. ADMINISTRATION. The office for planning and programming shall administer the Iowa youth corps and shall adopt rules governing its operation and eligibility for participation. The programs of the Iowa youth corps shall be open to both sexes. A person must be at least fourteen years of age and not older than nineteen years six months at the time of enrollment to receive wages or stipends through the youth corps. The office for planning and programming shall submit an annual report to the general assembly on the Iowa youth corps by January 15 of each year.

Sec. 4. NEW SECTION. EMPHASIS AND CONTRIBUTIONS. The Iowa youth corps shall give emphasis in its employment and volunteer programs to projects related to soil conservation, land management, energy savings, community improvement activities, economic development, and work benefiting human service programs. The office for planning and programming may require participating nonprofit private or public agencies operating a youth corps project to contribute at least thirty-five percent of the total project budget. The contribution may be in the form of cash or services.

Sec. 5. Section 7A.3, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

7A.3 PRIMARY RESPONSIBILITY. The primary responsibility of the office for planning and programming is to coordinate the development of state and local government programs in order to promote efficient and economic use of federal, state, local, and private resources. To carry out this responsibility, the office shall:

1. Provide technical and financial assistance to local and regional government organizations in Iowa, analyze intergovernmental relations in Iowa, and recommend policies to state agencies, local governments, the governor, and the general assembly.

2. Provide coordination of state policy planning, management of interagency programs of the state, and recommend policies to the governor and the general assembly.

3. Maintain and make available demographic and other information useful for state and local planning.

4. Prepare and submit economic reports appraising the economic condition, growth and development of the state.

5. Analyze the quality and quantity of services required for the orderly growth of the state, taking into consideration the relationship of activities, capabilities, and future plans of private enterprise, the local, state and federal governments, and regional units established under any state or federal legislation, and make recommendations to the governor and the general assembly for the establishment and improvement of such services.

6. Apply for, receive, administer, and use federal or other funds available for achieving the purposes of this chapter.

7. Inquire into methods of planning and program development, and the conduct of affairs of state government; prescribe adequate systems of records for planning and programming; establish standards for effective planning and programming; and exercise all other powers necessary in discharging the powers and duties of this chapter.

8. Analyze the relationship of federal and private aid programs to state and locally financed programs and make recommendations to state agencies, local governments, the governor, and the general assembly on means of avoiding duplication of activity and of increasing efficiency.

9. Carry out any other duties consistent with this chapter as directed by the governor or the general assembly.

Sec. 6. Section 103A.4, Code 1981, is amended to read as follows:

103A.4 COMMISSIONER. The ~~director of the division of municipal affairs, in the office for planning and programming shall~~ commissioner of public safety, in addition to ~~his~~ other duties, shall serve as the state building code commissioner, or may designate a building code commissioner.

Sec. 7. Section 249B.19, Code 1981, is amended to read as follows:

249B.19 ALLOCATION OF FUNDS. All funds appropriated to the commission from the general fund for the elderly care program shall be allocated initially to the area agencies on aging on the basis of population over sixty-five years of age, double-weighted for the low income population over sixty-five years of age. Area agencies on aging may apply for grants of funds not to exceed the amount allocated to the area by this method. Area agency on aging applications shall consist of grant requests from local, public and private organizations recommended and ~~prioritized~~ given priority ranking by the area agency to the commission based upon area wide needs assessment for elderly low income Iowans and compatability with the comprehensive aging plan for the area. The interagency co-ordinating committee shall review the grant applications of area agencies on aging and make recommendations to the commission regarding the awarding of grants to area agencies on aging. The commission shall have final responsibility for awarding grants to the area agencies on aging. The funds allocated to area agencies on the basis of population and income and not granted by the commission to the area agencies by December 1 and the funds granted by the commission to the area agencies by December 1 which the commission determines will not be expended during the fiscal year shall be considered excess funds and shall be transferred to a reallocation pool. The reallocation pool shall be reallocated to area agencies on aging by a method recommended by the interagency co-ordinating committee and approved by the commission. Area agencies on aging may apply for grants of funds from the reallocation pool. The interagency co-ordinating committee shall review these applications and make recommendations to the commission regarding the awarding of reallocation grants. The commission ~~shall have~~ has final authority for awarding reallocation grants. Excess funds not reallocated or granted by January 31 may be transferred to the ~~office for planning and programming~~ energy policy council to be used to assist the low income elderly in the payment of winter utility bills.

Sec. 8. Section 7A.7, Code 1981, is repealed.

Sec. 9. PRIOR ACTIONS. A rule adopted, permit or order issued, or approval given under chapter 103A before the effective date of this Act, by the director of the division of municipal affairs or the director's designated state building code commissioner, and effective immediately prior to the effective date of this Act, remains effective until modified or rescinded by action of the commissioner of public safety or the commissioner's designated state building code commissioner as provided in chapter 103A.

Sec. 10. TRANSFER OF EMPLOYEES.

1. The employees of the division of municipal affairs of the office for planning and programming who are employed in the administration of the state building code are transferred to the department of public safety. However, an employee of the division of municipal affairs whose duty assignment will be terminated because of section 6 of this Act may be reassigned to other duties or may be transferred to the department of public safety. An employee shall not lose benefits, including but not limited to salary, retirement, vacation, or sick leave because of reassignment or transfer provided in this section.

2. The records, equipment, and other property used in the administration of the state building code by the division of municipal affairs are transferred to the department of public safety.

Sec. 11. TRANSITION TO MERIT SYSTEM.

1. An employee transferred to the department of public safety under section 10 of this Act who holds a position covered by chapter 19A as of the effective date of this Act, and who has held the position or another position covered by chapter 19A for six months or more preceding the effective date of this Act, shall be given permanent appointment in the merit system in either of the following cases:

a. If the employee is certified by the director of the Iowa merit employment department as having met the minimum qualifications established for the classification of the position held and the employee is recommended by the appointing authority as having given satisfactory service during the prior period of employment.

b. If the employee does not meet the minimum qualifications established for the classification of the position held but is recommended by the appointing authority as having given satisfactory service during the prior period of service and is certified by the director of the Iowa merit employment department as having passed a qualifying examination for the position.

2. An employee transferred to the department of public safety under section 10 of this Act, who holds a position covered by chapter 19A as of the effective date of this Act, and who fails to obtain permanent status by either of the options provided in paragraphs a and b of subsection 1 or who has been employed for less than six months before the effective date of this Act, may apply for the position held or any other position covered by chapter 19A through the qualifying and examining procedures established under chapter 19A and may be appointed to the position on a noncompetitive basis.

3. This section does not preclude the reclassification or reallocation of a position held by an incumbent as provided in chapter 19A.

Approved May 10, 1982

CHAPTER 1211

UNLAWFUL TAKING OF GAME AND FISH

H.F. 2398

AN ACT relating to a penalty for taking certain game and fish in violation of law.

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

Section 1. Section 109.130, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. For each fish, five dollars.

NEW SUBSECTION. For each beaver, mink, otter, red fox, gray fox or raccoon, one hundred dollars.

Sec. 2. Section 109.130, unnumbered paragraph 1, Code 1981, is amended to read as follows:

In addition to the penalties for violations of this chapter, any person convicted of unlawfully taking, catching, killing, injuring, destroying, or having in possession any fish, game, or fur-bearing animal, shall reimburse the state for the value of such as follows:

Sec. 3. Section 109.130, subsections 1, 2 and 3, Code 1981, are amended to read as follows:

1. For each deer, elk, antelope, buffalo or moose, ~~three hundred~~ seven hundred fifty dollars.

2. For each wild turkey, ~~one~~ two hundred dollars.

3. For each game bird, fur-bearing animal or game animal or the raw pelt or plumage of such game for which damages are not otherwise prescribed, twenty-five to fifty dollars.

Sec. 4. Section 109.131, Code 1981, is amended to read as follows:

109.131 JUDGMENT—EXECUTION. In each case of conviction of unlawfully taking, catching, killing, injuring, destroying or having in possession any fish, game or fur-bearing animal, the court shall enter a judgment in favor of the state of Iowa for liquidated damages in an amount as provided in section 109.130, and it shall be the duty of the state conservation commission and the prosecuting attorney or attorney general, to collect the liquidated damages by execution or otherwise. If two or more persons who have acted together are convicted of the unlawful taking, catching, killing, injuring, destroying or having possession of any fish, game or fur-bearing animal, the judgment shall be entered against them jointly. Any liquidated damages received under this section and section 109.130 shall be remitted to the treasurer of state who shall credit such damages to the state fish and game protection fund.

The return of any uninjured fish, game or fur- bearing animal which has been unlawfully taken, caught, or possessed, to the place where taken or caught or to any other place approved by the state conservation commission, shall constitute the discharge of any liquidated damages provided under section 109.130.

Civil suits for the collection of judgments may be prosecuted by the attorney general or by county attorneys.

Approved May 21, 1982

CHAPTER 1212

SUBSTANCE ABUSER COMMITMENT OR TREATMENT

H.F. 2426

AN ACT relating to the procedures for involuntary commitment or treatment of substance abusers.

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

Section 1. Section 125.2, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Respondent" means a person against whom an application is filed under section 3 of this Act.

NEW SUBSECTION. "Clerk" means the clerk of the district court.

NEW SUBSECTION. "Chief medical officer" means the medical director in charge of a public or private hospital, or the director's physician-designee. This chapter does not negate the authority otherwise reposed by chapter 226 in the respective superintendents of the state mental health institutes to make decisions regarding the appropriateness of admissions or discharges of patients of those institutes, however, it is the intent of this chapter that a superintendent who is not a licensed physician shall be guided in these decisions by the chief medical officer of the institute.

NEW SUBSECTION. "Interested person" means a person who, in the discretion of the court, is legitimately concerned that a respondent receive substance abuse treatment services.

Sec. 2. Chapter 125, Code 1981, is amended by adding sections 3 through 22 of this Act after section 125.57 as a new division.

Sec. 3. NEW SECTION. INVOLUNTARY COMMITMENT OR TREATMENT—APPLICATION. Proceedings for the involuntary commitment or treatment of a substance abuser to a facility may be commenced by the county attorney or an interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence. The clerk or the clerk's designee shall assist the applicant in completing the application. The application shall:

1. State the applicant's belief that the respondent is a substance abuser.
2. State any other pertinent facts.
3. Be accompanied by one or more of the following:

a. A written statement of a licensed physician in support of the application.

b. One or more supporting affidavits corroborating the application.

c. Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to obtain, or when the clerk considers it appropriate to supplement, the information under either paragraph a or paragraph b.

Sec. 4. NEW SECTION. The applicant, if not the county attorney, may apply for the appointment of counsel if financially unable to employ an attorney to assist the applicant in presenting evidence in support of the application for commitment. If the applicant applies for the appointment of counsel, the application shall include a financial statement as defined in section 336B.1.

Sec. 5. NEW SECTION. SERVICE OF NOTICE. Upon the filing of an application for involuntary commitment, the clerk shall docket the case and immediately notify a district court judge who shall review the application and accompanying documentation. The clerk shall send copies of the application and supporting documentation, together with the notice informing the respondent of the procedures required by this division, to the sheriff, for immediate service upon the respondent. If the respondent is taken into custody under section 9 of this Act, service of the application, documentation, and notice upon the respondent shall be made at the time the respondent is taken into custody.

Sec. 6. NEW SECTION. PROCEDURE AFTER APPLICATION. As soon as practical after the filing of an application for involuntary commitment for treatment, the court shall:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the commitment proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting an attorney. In accordance with those determinations, the court shall allow the respondent to select an attorney or shall assign an attorney to the respondent. If the respondent is financially unable to pay an attorney, the attorney shall be compensated in substantially the same manner as provided by section 815.7, except that if the county has a public defender, the court may assign the public defender or an attorney on the public defender's staff as the respondent's attorney.

2. If the application includes a request for a court-appointed attorney for the applicant and the court is satisfied that a court-appointed attorney is necessary to assist the applicant in a meaningful presentation of the evidence, and that the applicant is financially unable to employ an attorney, the court shall appoint an attorney to represent the applicant. The attorney shall be compensated in substantially the same manner as provided by section 815.7.

3. Issue a written order:

a. Scheduling a tentative time and place for a hearing, subject to the findings of the report required under section 8, subsections 3 and 4 of this Act, but not less than forty-eight hours after notice to the respondent, unless the respondent waives the forty-eight hour notice requirement.

b. Requiring an examination of the respondent, prior to the hearing, by one or more licensed physicians who shall submit a written report of the examination to the court as required by section 8 of this Act.

Sec. 7. NEW SECTION. RESPONDENT'S ATTORNEY INFORMED. The court shall direct the clerk to furnish at once to the respondent's attorney, copies of the application for involuntary commitment of the respondent and the supporting documentation, and of the court's order issued pursuant to section 6, subsection 3 of this Act. If the respondent is taken into custody under section 9 of this Act, the attorney shall also be advised of that fact. The respondent's attorney shall represent the respondent at all stages of the proceedings and shall attend the commitment hearing.

Sec. 8. NEW SECTION. PHYSICIAN'S EXAMINATION—REPORT— SCHEDULING OF HEARING.

1. An examination of the respondent shall be conducted within a reasonable time and prior to the commitment hearing by one or more licensed physicians as required by the court's order. If the respondent is taken into custody under section 9 of this Act, the examination shall be conducted within twenty-four hours after the respondent is taken into custody. If the respondent desires, the respondent may have a separate examination by a licensed physician of the respondent's own choice. The court shall notify the respondent of the right to choose a physician for a separate examination. The reasonable cost of the examinations shall be paid from county funds upon order of the court if the respondent lacks sufficient funds to pay the cost.

A licensed physician conducting an examination pursuant to this section may consult with or request the participation in the examination of facility personnel, and may include with or attach to the written report of the examination any findings or observations by facility personnel who have been consulted or have participated in the examination.

If the respondent is not taken into custody under section 9 of this Act, but the court is subsequently informed that the respondent has declined to be examined by a licensed physician pursuant to the court order, the court may order limited detention of the respondent as necessary to facilitate the examination of the respondent by the licensed physician.

2. A written report of the examination by a court-designated physician shall be filed with the clerk prior to the hearing date. A written report of an examination by a physician chosen by the respondent may be similarly filed. The clerk shall immediately:

a. Cause a report to be shown to the judge who issued the order.

b. Cause the respondent's attorney to receive a copy of the report of a court-designated physician.

3. If the report of a court-designated physician is to the effect that the respondent is not a substance abuser, the court, without taking further action, may terminate the proceeding and dismiss the application on its own motion and without notice.

4. If the report of a court-designated physician is to the effect that the respondent is a substance abuser, the court shall schedule a commitment hearing as soon as possible. The hearing shall be held not more than forty-eight hours after the report is filed, excluding Saturdays, Sundays, and holidays, unless an extension for good cause is requested by the respondent, or as soon thereafter as possible if the court considers that sufficient grounds exist for delaying the hearing.

Sec. 9. NEW SECTION. IMMEDIATE CUSTODY. If a person filing an application requests that a 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 a substance abuser who 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, and be detained until the commitment 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 business day. The judge may order the respondent detained for the period of time until the hearing is held, and no longer except as provided in section 16 of this Act, in accordance with subsection 1 if possible, and if not, then in accordance with subsection 2 or, only if neither of these alternatives is available in accordance with subsection 3. Detention may be:

1. In the custody of a relative, friend, or other suitable person who is willing and able to accept responsibility for supervision of the respondent, with reasonable restrictions as the judge may order including but not limited to restrictions on or a prohibition of any expenditure, encumbrance, or disposition of the respondent's funds or property.

2. In a suitable hospital, the chief medical officer of which shall be informed of the reasons why immediate custody has been ordered. The hospital may provide treatment which is necessary to preserve the respondent's life, or to appropriately control the respondent's behavior which is likely to result in physical injury to himself or herself or to others if allowed to continue, and other treatment as deemed appropriate by the chief medical officer.

3. In a facility in the community which is suitably equipped and staffed for the purpose, provided that detention in a jail or other facility intended for confinement of those accused or convicted of a crime shall not be ordered, except in cases of actual emergency if no other secure resource is accessible, and then only for a period of not more than twenty-four hours and under close supervision.

The respondent's attorney may be allowed by the court to present evidence and arguments before the court's determination under this section. If such an opportunity is not provided at that time, respondent's attorney shall be allowed to present evidence and arguments after the issuance of the court's order of confinement and while the respondent is confined.

Sec. 10. NEW SECTION. COMMITMENT HEARING.

1. At a commitment hearing, evidence in support of the contentions made in the application shall be presented by the applicant, or by an attorney for the applicant, or by the county attorney if the county attorney is the applicant. 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 other interested persons. If the respondent is present at the hearing, as provided in subsection 3, and has been medicated within twelve hours, or a longer period of time as the court may designate, prior to the beginning of the hearing or a session of the hearing, the judge shall be informed of that fact and of the probable effects of the medication upon convening of the hearing.

2. A person not necessary for the conduct of the hearing shall be excluded, except that the court may admit a person having a legitimate interest in the hearing. Upon motion of the applicant, the judge may exclude the respondent from the hearing during the testimony of a witness if the judge determines that the witness' testimony is likely to cause the respondent severe emotional trauma.

3. The person who filed the application and a physician or professional who has examined the respondent in connection with the commitment hearing shall be present at the hearing, unless prior to the hearing the judge for good cause finds that their presence is not necessary. The respondent shall be present at the hearing unless prior to the hearing the respondent's attorney stipulates in writing that the attorney has conversed with the respondent, and that in the attorney's judgment the respondent cannot make a meaningful contribution to the hearing, or that the respondent has waived the right to be present, and the basis for the attorney's conclusions. A stipulation to the respondent's absence shall be reviewed by the judge before the hearing, and may be rejected if it appears that insufficient grounds are stated or that the respondent's interests would not be served by the respondent's absence.

4. The respondent's welfare is paramount, and the hearing shall be tried as a civil matter and conducted in as informal a manner as is consistent with orderly procedure. Discovery as permitted under the Iowa rules of civil procedure is available to the respondent. The court shall receive all relevant and material evidence, but the court is not bound by the rules of evidence. A presumption in favor of the respondent exists, and the burden of evidence and support of the contentions made in the application shall be upon the person who filed the application. If upon completion of the hearing the court finds that the contention that the respondent is a substance abuser has not been sustained by clear and convincing evidence, the court shall deny the application and terminate the proceeding.

5. If the respondent is not taken into custody under section 9 of this Act, but the court finds good cause to believe that the respondent is about to depart from the jurisdiction of the court, the court may order limited detention of the respondent as authorized in section 9 of this Act, as is necessary to ensure 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. 11. NEW SECTION. PLACEMENT FOR EVALUATION. If upon completion of the commitment hearing, the court finds that the contention that the respondent is a substance abuser has been sustained by clear and convincing evidence, the court shall order the respondent placed at a facility as expeditiously as possible for a complete evaluation and

appropriate treatment. The court shall furnish to the facility at the time of admission, a written statement of facts setting forth the evidence on which the finding is based. The administrator of the facility shall report to the court no more than fifteen days after the individual is admitted to the facility, which shall include the chief medical officer's recommendation concerning substance abuse treatment. An extension of time may be granted for a period not to exceed seven days upon a showing of good cause. A copy of the report shall be sent to the respondent's attorney who may contest the need for an extension of time if one is requested. If the request is contested, the court shall make an inquiry as it deems appropriate and may either order the respondent released from the facility or grant extension of time for further evaluation.

Sec. 12. NEW SECTION. EVALUATION REPORT. The facility administrator's report to the court of the chief medical officer's substance abuse evaluation of the respondent shall be made no later than the expiration of the time specified in section 11 of this Act. At least two copies of the report shall be filed with the clerk, who shall distribute the copies in the manner described by section 8, subsection 2 of this Act. The report shall state one of the four following alternative findings:

1. That the respondent does not, as of the date of the report, require further treatment for substance abuse. If the report so states, the court shall order the respondent's immediate release from involuntary commitment and terminate the proceedings.

2. That the respondent is a substance abuser who is in need of full-time custody, care, and treatment in a facility, and is considered likely to benefit from treatment. If the report so states, the court may order the respondent's continued placement and commitment to a facility for appropriate treatment.

3. That the respondent is a substance abuser who is in need of treatment, but does not require full-time placement in a facility. If the report so states, the report shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court may enter an order directing the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment, as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 9 of this Act and, following notice and hearing held in accordance with the procedures of sections 5 and 10 of this Act, may order the respondent treated as a patient requiring full-time custody, care, and treatment as provided in subsection 2, and may order the respondent involuntarily committed to a facility.

4. That the respondent is a substance abuser who is in need of treatment, but in the opinion of the chief medical officer is not responding to the treatment provided. If the report so states, the report shall include the facility administrator's recommendation for alternative placement, and the court may order the respondent's transfer to the recommended placement or to another placement after consultation with respondent's attorney and the facility administrator who made the report under this subsection.

Sec. 13. NEW SECTION. CUSTODY, DISCHARGE, AND TERMINATION OF PROCEEDING.

1. A respondent committed under section 12, subsection 2 of this Act, shall remain in the custody of a facility for treatment for a period of thirty days, unless sooner discharged. The department is not required to pay the cost of any medication or procedure provided to the respondent 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, obtains a court order for the respondent's recommitment pursuant to an application under section 3 of this Act, for a further period not to exceed ninety days.

2. A respondent recommitted under subsection 1 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 for the respondent's recommitment pursuant to an application under section 3 of this Act, for a further period not to exceed ninety days.

3. Upon the filing of an application for recommitment under subsection 1 or 2, the court shall schedule a recommitment hearing for no later than ten days after the date the application is filed. A copy of the application, the notice of hearing, and any reports shall be served or provided in the manner and to the persons as required by sections 5 through 8, 11, and 12 of this Act.

4. Following a respondent's discharge from a facility or from treatment, the administrator of the facility shall immediately report that fact to the court which ordered the respondent's commitment or treatment. The court shall issue an order confirming the respondent's discharge from the facility or from treatment, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified mail to the facility and the respondent.

Sec. 14. NEW SECTION. PERIODIC REPORTS REQUIRED.

1. No more than thirty days after entry of a court order for commitment to a facility under section 12, subsection 2 of this Act, and thereafter at successive intervals not to exceed ninety days for as long as involuntary commitment of the respondent continues, the administrator of the facility shall report to the court which entered the order. The report shall be submitted in the manner required by section 12 of this Act, shall state whether in the opinion of the chief medical officer the respondent's condition has improved, remains unchanged, or has deteriorated, and shall indicate the further length of time the respondent will be required to remain at the facility.

2. No more than sixty days after entry of a court order for treatment of a respondent under section 12, subsection 3 of this Act, and thereafter at successive intervals not to exceed ninety days for as long as involuntary treatment continues, the administrator of the facility shall report to the court which entered the order. The report shall be submitted in the manner required by section 12 of this Act, shall state whether in the opinion of the chief medical officer the respondent's condition has improved, remains unchanged, or has deteriorated, and shall indicate the further length of time the respondent will require treatment by the facility. If the respondent fails or refuses to submit to treatment as ordered by the court, the administrator of the facility shall at once notify the court, which shall order the respondent committed for treatment as provided by section 12, subsection 3 of this Act, unless the court finds that the failure or refusal was with good cause, and that the respondent is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If the administrator of the facility reports to the court that the respondent requires full-time custody, care, and treatment in a facility, and the respondent is willing to be admitted voluntarily to the facility for these purposes, the court may enter an order approving the placement upon consultation with the administrator of the facility in which the respondent is to be placed. If the respondent is unwilling to be admitted voluntarily to the facility, the procedure for determining involuntary commitment, as provided in section 12, subsection 3 of this Act, shall be followed.

Sec. 15. NEW SECTION. STATUS DURING APPEAL. If a respondent appeals to the supreme court from a lower court's finding that commitment is warranted, the respondent shall remain committed if already in custody, pursuant to an order of immediate custody under

section 9 of this Act or pursuant to an order for evaluation and treatment under section 11 of this Act, before notice of appeal was filed, unless the supreme court orders otherwise.

Sec. 16. NEW SECTION. STATUS IF COMMITMENT DELAYED. If a court directs a respondent who was previously ordered taken into immediate custody under section 9 of this Act to be placed at a facility for evaluation and appropriate treatment under section 11 of this Act, and no suitable facility can immediately admit the respondent, the respondent shall remain in custody as previously ordered by the court, notwithstanding the time limits stated in section 9 of this Act, until a suitable facility can admit the respondent. The court shall take appropriate steps to expedite the admission of the respondent to a suitable facility at the earliest feasible time.

Sec. 17. NEW SECTION. RESPONDENTS CHARGED WITH OR CONVICTED OF CRIME.

1. If a court orders a respondent placed at a facility for evaluation and treatment under section 11 of this Act at a time when the respondent has been convicted of a public offense, or when there is pending against the respondent an unresolved formal charge of a public offense, and the respondent's liberty has therefore been restricted in any manner, the findings of fact required by section 11 of this Act shall clearly so inform the administrator of the facility where the respondent is placed.

2. The commitment powers of the court under section 204.409, subsection 2 supersede the procedures and requirements of this division.

Sec. 18. NEW SECTION. JUDICIAL HOSPITALIZATION REFEREE. Judicial hospitalization referees shall be utilized as provided in section 229.21 for performing the duties of the court prescribed by this division.

Sec. 19. NEW SECTION. EMERGENCY DETENTION.

1. The procedure prescribed by this section shall only be used for an intoxicated person who has threatened, attempted, or inflicted physical self-harm or harm on another, and is likely to inflict physical self-harm or harm on another unless immediately detained, or who is incapacitated by a chemical substance, if that person cannot be taken into immediate custody under sections 3 and 9 of this Act because immediate access to the court is not possible.

2. A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable, may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 9, subsection 2 or 3 of this Act. Such an intoxicated or incapacitated person may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the chief medical officer may order treatment of the person, but only to the extent necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to the administrator. If the administrator in consultation with the chief medical officer has reasonable grounds to believe that the circumstances in subsection 1 are applicable, the administrator shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 6. The magistrate shall immediately proceed to the facility where the person is detained, except that if the administrator's communication with the magistrate occurs between the hours of midnight and seven a.m. and the magistrate deems it appropriate under the circumstances described by the administrator, the magistrate may delay going to the facility, and in that case, shall give the administrator verbal instructions either directing that the person be released forthwith, or authorizing the person's continued detention at the facility. In the latter case, the magistrate shall:

a. Arrive at the facility where the person is being detained as soon as possible and no later than twelve o'clock noon of the same day on which the administrator's communication occurred.

b. By the close of business on the next working day file with the clerk a written report stating the substance of the communication with the administrator on which the person's continued detention was ordered.

3. Upon arrival at the facility, the magistrate shall at once review the validity of the detention. Unless convinced upon initial inquiry that there are no grounds for further detention of the person, the magistrate shall ensure that the person has or is provided legal counsel at the earliest practical time in the manner prescribed by section 6, subsection 1 of this Act, and shall arrange for the counsel to be present, if practical, before proceeding further under this subsection. The magistrate shall immediately notify counsel of the respondent's emergency detention. Counsel shall be afforded an opportunity to visit the respondent and to make appropriate preparations before or after the magistrate's order is issued. If the magistrate finds, upon review of the information presented by the administrator under subsection 2 and of other information or evidence the magistrate deems relevant, that there is probable cause to believe that the circumstances described in subsection 1 are applicable, the magistrate shall enter a written order detaining the person at the facility, or, if the facility where the person is at the time is not an appropriate facility, detaining and transporting the person to an appropriate facility. The magistrate's order shall state the circumstances under which the person was detained or otherwise delivered to a facility, and the grounds supporting the finding of probable cause to believe that person is a substance abuser likely to physically injure himself or herself or others if not detained. The order shall be filed with the clerk in the county where it is anticipated that an application will be filed under section 3 of this Act, and a certified copy of the order shall be delivered to the administrator of the facility where the person is detained, at the earliest practical time.

4. The chief medical officer of the facility shall examine and may detain the person pursuant to the magistrate's order for a period not to exceed forty- eight hours from the time the order is dated, excluding Saturdays, Sundays, and holidays, unless the order is dismissed by a magistrate. The facility may provide treatment which is necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue or is otherwise deemed medically necessary by the chief medical officer, but shall not otherwise provide treatment to the person without the person's consent. The person shall be discharged from the facility and released from detention no later than the expiration of the forty-eight hour period, unless an application for involuntary commitment is filed with the clerk pursuant to section 3 of this Act. The detention of a person by the procedure in this section, and not in excess of the period of time prescribed by this section, shall not render the peace officer, physician, or facility detaining the person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, physician, or facility had reasonable grounds to believe that the circumstances described in subsection 1 were applicable.

5. The cost of detention in a facility under the procedure prescribed in this section shall be paid in the same way as if the person had been committed to the facility pursuant to an application filed under section 3 of this Act.

Sec. 20. NEW SECTION. RIGHTS AND PRIVILEGES OF COMMITTED PERSONS. A person who is detained, taken into immediate custody, or committed under this division has the right to:

1. Prompt evaluation, emergency services, and care and treatment as indicated by sound clinical practice.

2. Render informed consent, except for treatment provided pursuant to sections 9 and 19 of this Act. If the person is incompetent treatment may be consented to by the person's next of kin or guardian notwithstanding the person's refusal. If the person refuses treatment which in the opinion of the chief medical officer is necessary or if the person is incompetent and the next of kin or guardian refuses to consent to the treatment or no next of kin or guardian is available the facility may petition a court of appropriate jurisdiction for approval to treat the person.

3. The protection of the person's constitutional rights.

4. Enjoy all legal, medical, religious, social, political, personal, and working rights and privileges, which the person would enjoy if not detained, taken into immediate custody, or committed, consistent with the effective treatment of the person and of the other persons in the facility. If the person's rights are restricted, the physician's direction to that effect shall be noted in the person's record. The person or the person's next of kin or guardian shall be advised of the person's rights and be provided a written copy upon the person's admission to or arrival at the facility.

Sec. 21. NEW SECTION. COMMITMENT RECORDS—CONFIDENTIALITY. Records of the identity, diagnosis, prognosis, or treatment of a person which are maintained in connection with the provision of substance abuse treatment services are confidential, consistent with the requirements of section 125.37, and with the federal confidentiality regulations authorized by the Drug Abuse Office and Treatment Act, 21 U.S.C. sec. 1175 (1976) and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, 42 U.S.C. sec. 4582 (1976).

Sec. 22. NEW SECTION. SUPREME COURT RULES. The supreme court may prescribe rules of pleading, practice, and procedure and the forms of process, writs, and notices, for all commitment proceedings in a court of this state 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, or modify the substantive rights of a party to a commitment proceeding under this chapter.

Sec. 23. Section 125.12, subsection 3, Code 1981, is amended to read as follows:

3. The director shall provide for adequate and appropriate treatment for substance abusers and intoxicated persons admitted under sections 125.33 ~~to 125.35 and 125.53~~ and 125.34, or under section 3, 9, or 19 of this Act. Treatment shall not be provided at a correctional institution except for inmates.

Sec. 24. Section 125.34, Code 1981, is amended to read as follows:

125.34 TREATMENT AND SERVICES FOR INTOXICATED PERSONS AND PERSONS INCAPACITATED BY ALCOHOL.

1. An intoxicated person may come voluntarily to a facility for emergency treatment. A person who appears to be intoxicated or incapacitated by a chemical substance in a public place and in need of help ~~shall~~ may be taken to a facility by a peace officer under section 19 of this Act. If the person refuses the proffered help, the person may be arrested and charged with intoxication under section 123.46, if applicable.

2. If no facility is readily available the person may be taken to an emergency medical service customarily used for incapacitated persons. The peace officer in detaining the person and in taking the person to a facility~~, is taking the person into protective custody and~~ shall make every reasonable effort to protect the person's health and safety. In ~~taking~~ detaining the person ~~into protective custody,~~ the detaining officer may take reasonable steps for self-protection. ~~A taking into protective custody~~ Detaining a person under ~~this~~ section 19 of this Act is not an arrest and no entry or other record shall be made to indicate that the person who

is ~~taken into protective custody~~ detained has been arrested or charged with a crime.

3. A person who ~~comes voluntarily or is brought to~~ arrives at a facility and voluntarily submits to examination shall be examined by a licensed physician as soon as possible, but not later than twelve hours after the person ~~comes voluntarily or is brought to~~ arrives at the facility. ~~He~~ The person may then be admitted as a patient or referred to another health facility. The referring facility shall arrange for ~~his~~ transportation.

~~4. A person who is found to be intoxicated or incapacitated by a chemical substance after examination by a qualified health professional shall be required to remain at the facility until the qualified health professional determines that the person is not likely to inflict physical self harm or inflict physical harm on others. If the person is detained longer than twenty-four hours the qualified health professional shall examine him or her at least once every twelve hours to determine if further detention is necessary. The qualified health professional shall enter a written order for the person to be detained in custody. Such order shall state the circumstances under which the person was taken into custody and the grounds supporting the finding or probable cause to believe that he or she is sufficiently impaired or incapacitated by a chemical substance to cause physical injury to himself or herself or others if released. The order shall be filed in the district court of the area in which the person is detained.~~

~~5~~ 4. If a ~~patient~~ person is voluntarily admitted to a facility, ~~his~~ the person's family or next of kin shall be notified as promptly as possible. If an adult patient who is not incapacitated requests that there be no notification, ~~his~~ the request shall be respected.

~~6~~ 5. A peace officer who acts in compliance with this section is acting in the course of ~~his~~ the officer's official duty and is not criminally or civilly liable therefor, unless such acts constitute willful malice or abuse.

~~7~~ 6. If the physician in charge of the facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

7. A licensed physician and surgeon or osteopathic physician and surgeon, facility administrator, or an employee or a person acting as or on behalf of the facility administrator, is not criminally or civilly liable for acts in conformity with this chapter, unless the acts constitute willful malice or abuse.

Sec. 25. Section 125.44, unnumbered paragraph 6, Code 1981, is amended to read as follows:

The department is liable for the cost of care, treatment, and maintenance of a substance abuser admitted to the facility voluntarily or pursuant to section ~~125.34, 125.35,~~ 3, 9, or 19 of this Act or section 321.281, 321.283, subsection 3, or 204.409, subsection 2 ~~or 229.52~~ only to those facilities that have a contract with the department under this section, only for the amount computed according to and within the limits of liability prescribed by this section, and only when the substance abuser is unable to pay ~~such~~ the costs and there is no other person, firm, corporation or insurance company bound to pay ~~such~~ the costs.

Sec. 26. Section 125.45, subsection 1, Code 1981 Supplement, is amended to read as follows:

1. Except as provided in section 125.43, each county shall pay for the remaining twenty-five percent of the cost of the care, maintenance, and treatment under this chapter of residents of that county from the levy authorized by section 331.421, subsection 13. The commission shall establish guidelines for use by the counties in estimating the amount of expense which the county will incur each year. The facility shall certify to the county of residence once each month twenty-five percent of the unpaid cost of the care, maintenance, and treatment of a substance abuser. However, the approval of the board of supervisors is required before payment is made by a county for costs incurred which exceed a total of five hundred dollars for one year for treatment provided to any one substance abuser, except that approval is not required for the cost of treatment provided to a substance abuser who is ~~committed~~ detained pursuant to section ~~125.35~~ 19 of this Act. A facility may, upon approval of the board of supervisors, submit to a county a billing for the aggregate amount of all care, maintenance, and

treatment of substance abusers who are residents of that county for each month. The board of supervisors may demand an itemization of billings at any time or may audit them.

Sec. 27. Section 229.21, Code 1981, is amended to read as follows:

229.21 JUDICIAL HOSPITALIZATION REFEREE.

1. The judges in each judicial district shall meet and ~~shall~~ determine, individually for each county in the district, whether ~~it appears that~~ one or more district judges or magistrates will be sufficiently accessible in that county to make it feasible for them to perform at all times the duties prescribed by sections 229.7 to 229.20 and section 229.22 and by sections ~~229.51 to 229.53~~ 3 through 22 of this Act. If the judges find that accessibility of district court judges or magistrates in any county is not sufficient for this purpose, the chief judge of the district shall appoint in that county a judicial hospitalization referee. The judges in any district may at any time review their determination, previously made under this subsection with respect to any county in the district, and pursuant to that review may authorize appointment of a judicial hospitalization referee, or abolish the office, in that county.

2. The judicial hospitalization referee shall be an attorney, licensed to practice law in this state, who shall be chosen with consideration to any training, experience, interest, or combination of those factors, which are pertinent to the duties of the office. The referee shall hold office at the pleasure of and receive compensation at a rate fixed by the chief judge of the district. If the referee expects to be absent from the county for any significant length of time, the referee shall inform the chief judge who may appoint a temporary substitute judicial hospitalization referee having the qualifications set forth in this subsection.

3. When an application for involuntary hospitalization under this chapter or an application for involuntary commitment or treatment of substance abusers under sections 3 through 22 of this Act is filed with the clerk of the district court in any county for which a judicial hospitalization referee has been appointed, and no district judge is accessible in the county, the clerk shall immediately notify the referee in the manner required by section 229.7 or section 5 of this Act. The referee shall thereupon discharge all of the duties imposed upon judges of the district court or magistrates by sections 229.7 to 229.20 or sections 3 through 22 of this Act in the proceeding so initiated. If an emergency hospitalization proceeding is initiated under section 229.22 a judicial hospitalization referee may perform the duties imposed upon a magistrate by that section. Upon termination of the proceeding or issuance of an order under section 229.13 or section 11 of this Act, the referee shall transmit either to the chief judge, or another judge of the district court designated by the chief judge, a statement of the reasons for the referee's action and a copy of any order issued.

4. Any respondent with respect to whom the judicial hospitalization referee has found the contention that ~~he or she~~ the respondent is seriously mentally impaired or a substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 10 of this Act, may appeal from 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 by 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 hospitalization or commitment hearing before a district judge at the earliest practicable time.

5. If the appellant is in custody under the jurisdiction of the district court at the time of service of the notice of appeal, ~~he or she~~ the appellant shall be discharged from custody unless an order that the appellant be taken into immediate custody has previously been issued under section 229.11 or section 9 of this Act, in which case the appellant shall be detained as provided in that section until the hospitalization or commitment hearing before the district judge. If

the appellant is in the custody of a hospital or facility at the time of service of the notice of appeal, ~~he or she~~ the appellant shall be discharged from custody pending disposition of the appeal unless the chief medical officer, not later than the end of the next secular day on which the office of the clerk is open and which follows service of the notice of appeal, files with the clerk a certification that in the chief medical officer's opinion the appellant is seriously mentally ill or a substance abuser. In that case, the appellant shall remain in custody of the hospital or facility until the hospitalization or commitment hearing before the district court.

6. The hospitalization or commitment hearing before the district judge shall be held, and the judge's finding shall be made and an appropriate order entered, as prescribed by sections 229.12 and 229.13 or sections 10 and 11 of this Act. If the judge orders the appellant hospitalized or committed for a complete psychiatric or substance abuse evaluation, jurisdiction of the matter shall revert to the judicial hospitalization referee.

Sec. 28. Section 125.35 and sections 229.50 through 229.53, Code 1981, are repealed.

Approved May 21, 1982

CHAPTER 1213

REGISTRATION OF GROUP DAY CARE HOMES

H.F. 303

AN ACT relating to the registration of group day care home providers.

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

Section 1. Section 237A.1, subsection 8, Code 1981, is amended to read as follows:

8. "Child care center" or "center" means a facility providing child day care for seven or more children, except when the facility is registered as a group day care home.

Sec. 2. Section 237A.1, subsection 9, Code 1981, is amended to read as follows:

9. a. "Family day care home" means a facility which provides child day care to less than seven children.

b. "Group day care home" means a facility providing child day care for more than six but less than twelve children, with no more than six children at one time being less than six years of age.

Sec. 3. Section 237A.1, subsection 10, Code 1981, is amended to read as follows:

10. "Child day care facility" or "facility" means a child care center, group day care home, or registered family day care home.

Sec. 4. Section 237A.3, Code 1981, is amended to read as follows:

237A.3 REGISTRATION OF FAMILY AND GROUP DAY CARE HOMES.

1. A person who operates or establishes a family day care home may apply to the department for registration under ~~the provisions of~~ this chapter. The department shall issue a certificate of registration upon receipt of a statement from the family day care home that the home complies with rules ~~promulgated~~ adopted by the department. The registration certificate shall be posted in a conspicuous place in the family day care home, shall state the name

of the registrant, the number of individuals who may be received for care at any one time and the address of the home, and shall include a check list of registration compliances. No greater number of children than is authorized by the certificate shall be kept in the family day care home at any one time. The registration process may be repeated on an annual basis. A facility which is not a family day care home by reason of the definition of child day care in section 237A.1, subsection 7, but which provides care, supervision or guidance to a child may be issued a certificate of registration under ~~the provisions of~~ this chapter.

2. A person shall not operate or establish a group day care home unless the person obtains a certificate of registration under this chapter. In order to be registered, the group day care home shall have at least one responsible individual, age fourteen or older, on duty to assist the group day care home provider when there are more than six children present for more than a two hour period. All other requirements of this chapter for registered family day care homes and the rules adopted under this chapter for registered family day care homes apply to group day care homes. In addition, the department shall adopt rules relating to the provision in group day care homes for a separate area for sick children. In consultation with the state fire marshal, the department shall adopt rules relating to the provision of fire extinguishers, smoke detectors, and two exits accessible to children.

Sec. 5. Section 237A.19, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who establishes, conducts, manages, or operates a group day care home without registering under this chapter is guilty of a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

Sec. 6. Section 237.10, Code 1981, is repealed.

Approved May 11, 1982

CHAPTER 1214

HOMESTEAD PROPERTY TAX CREDIT

H.F. 861

AN ACT to authorize a person who is confined in a hospital or nursing care facility to qualify for claiming and authorize an executor or administrator of an estate to file a claim for the extraordinary property tax credit or reimbursement on the person's homestead, with a January 1 effective date.

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

Section 1. Section 425.17, subsection 4, Code 1981, is amended to read as follows:

4. "Homestead" means the dwelling owned or rented and actually used as a home by the claimant during all or part of the base year, and so much of the land surrounding it including one or more contiguous lots or tracts of land, as is reasonably necessary for use of the dwelling

as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built. It does not include personal property except that a mobile home may be a homestead. Any dwelling or a part of a multidwelling or multipurpose building which is exempt from taxation does not qualify as a homestead under this division. A homestead must be located in this state. When a person is confined in a nursing home, extended-care facility, or hospital, the person shall be considered as occupying or living in the person's homestead if the person is the owner of the homestead and the person maintains the homestead and does not lease, rent, or otherwise receive profits from other persons for the use of the homestead.

Sec. 2. Section 425.17, subsection 5, Code 1981, is amended to read as follows:

5. "Claimant" means a person filing a claim for credit or reimbursement under this division who has attained the age of sixty-five years on or before December 31 of the base year or who is a surviving spouse having attained the age of fifty-five years on or before December 31 of the base year, or who is totally disabled and was totally disabled on or before December 31 of the base year, and was domiciled in this state during the entire base year and is domiciled in this state at the time the claim is filed or at the time of the person's death in the case of a claim filed by the executor or administrator of the claimant's estate. "Claimant" includes a vendee in possession under a contract for deed and may include one or more joint tenants or tenants in common. In the case of a claim for rent constituting property taxes paid, the claimant shall have rented the property during any part of the base year. If a homestead is occupied by two or more persons, and more than one person is able to qualify as a claimant, the persons may determine among them who will be the claimant. If they are unable to agree, the matter shall be referred to the director of revenue not later than October 31 of each year and the director's decision shall be final.

Sec. 3. Section 425.18, Code 1981, is amended to read as follows:

425.18 ~~CLAIM IS PERSONAL~~ RIGHT TO FILE A CLAIM. The right to file a claim for credit under this division ~~shall be~~ is personal to the claimant and ~~shall~~ does not survive the claimant's death, but the right may be exercised on behalf of a claimant by ~~his or her~~ the claimant's legal guardian, spouse or attorney. The right to file a claim for reimbursement under this division may be exercised by the claimant or on behalf of a claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate. If a claimant dies after having filed a claim for reimbursement for rent constituting property taxes paid, 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 the household, the reimbursement may be paid to 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. If a claimant dies after having filed a claim for credit for property taxes due, the amount of credit shall be paid as if the claimant had not died.

Sec. 4. This Act takes effect January 1 following enactment.

Approved May 19, 1982

CHAPTER 1215

DRIVER EDUCATION LABORATORY INSTRUCTION

H.F. 2090

AN ACT relating to the hours of laboratory instruction required for completion of a driver education course.

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

Section 1. Section 321.178, subsection 1, unnumbered paragraph 1, Code 1981, is amended to read as follows:

An approved driver education course as programmed by the department of public instruction shall consist of at least thirty clock hours of classroom instruction, and six or more clock hours of laboratory instruction of which at least three clock hours shall consist of street or highway driving. After the student has completed three clock hours of street or highway driving and has demonstrated to the instructor an ability to properly operate a motor vehicle and upon written request of a parent or guardian, the instructor may waive the remaining required laboratory instruction.

Sec. 2. Section 321.178, subsection 1, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Every public school district in Iowa shall offer or make available to all students residing in the school district or Iowa students attending a nonpublic school in the district an approved course in driver education. ~~Said~~ The courses may be offered at sites other than at the public school, including nonpublic school facilities within the public school districts. An approved course offered during the summer months, on Saturdays, after regular school hours during the regular terms or partly in one term or summer vacation period and partly in the succeeding term or summer vacation period, as the case may be, shall satisfy the requirements of this section to the same extent as an approved course offered during the regular school hours of the school term. A student who successfully completes and obtains certification in an approved course in driver education or an approved course in motorcycle education may, upon proof of such fact, be excused from any field test which ~~he~~ the student would otherwise be required to take in demonstrating ~~his~~ the student's ability to operate a motor vehicle.

Approved May 7, 1982

CHAPTER 1216

COLLECTION OF DELINQUENT STATE TAXES

S.F. 2191

AN ACT relating to the employment of collection agencies for the collection of delinquent taxes administered by the department of revenue, and making an appropriation, effective upon publication.

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

Section 1. Section 421.17, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. To employ collection agencies, within or without the state, to collect delinquent taxes, including penalties and interest, administered by the department where the director finds that departmental personnel are unable to collect the delinquent accounts because of a taxpayer's location outside the state or for any other reason. Fees for services, reimbursement, or other remuneration, including attorney fees, paid to collection agencies shall be based upon the amount of tax, penalty, and interest actually collected and shall be paid only after the amount of tax, penalty, and interest is collected. All funds collected must be remitted in full to the department within thirty days from the date of collection from a taxpayer or in a lesser time as the director prescribes. The funds shall be applied toward the taxpayer's account and handled as are funds received by other means. An amount is appropriated from the amount of tax, penalty, and interest actually collected by the collection agency sufficient to pay all fees for services, reimbursement, or other remuneration pursuant to a contract with a collection agency under this subsection. A collection agency entering into a contract with the department for the collection of delinquent taxes pursuant to this subsection is subject to the requirements and penalties of tax information confidentiality laws of this state. All contracts and fees provided for in this subsection are subject to the approval of the governor.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Creston News-Advertiser, a newspaper published in Creston, Iowa, and in The Titonka Topic, a newspaper published in Titonka, Iowa.

Approved May 11, 1982

I hereby certify that the foregoing Act, Senate File 2191 was published in the Creston News-Advertiser, Creston, Iowa on May 14, 1982 and in The Titonka Topic, Titonka, Iowa, on May 20, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1217

GENDER DESIGNATION IN CODE

H.F. 2346

AN ACT requiring the Code editor to amend certain words in the Code which designate one gender to reflect both genders where appropriate.

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

Section 1. The Code editor, in carrying out the duties specified in chapter 14 relating to publication of the Code, shall edit the Code in order that words which designate one gender will be changed to reflect both genders when the provisions of law apply to persons of both genders. The editorial work shall be completed in time for publication in the Code to be issued following the 1984 legislative session. However, if the editorial work cannot be completed for publication in the Code by that date, the Code editor shall report that fact to the senate committee on judiciary and the house committee on judiciary and law enforcement, with the reasons why the work cannot be completed. The Code editor shall complete the remainder of the editorial work in time for publication in the Code to be issued following the 1986 legislative session.

The Code editor shall not make any substantive changes to the Code while performing the editorial work. The Code editor shall seek direction from the senate committee on judiciary and the house committee on judiciary and law enforcement before making any changes which appear to require substantial editing and which might otherwise be interpreted to exceed the scope of the Code editor's authority. The Code editor shall submit questions, report periodically on the progress of the editorial work, and prepare a report outlining the changes for the committees. The Code editor shall maintain a record of the changes and the reasons for the changes. The record shall be available to the public.

Sec. 2. This Act shall have no application to chapters 245, 246 and 595, Code 1981.

Approved May 13, 1982

CHAPTER 1218

SPECIAL FUELS' USE, IDENTIFICATION, TAX, AND DELIVERY

S.F. 2251

AN ACT relating to natural gas as a special fuel and providing for the payment of the tax for the use thereof, requiring notice of changes in motor vehicle fuel type, requiring identification of vehicles using special fuels, and controlling the delivery of liquefied petroleum gas.

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

Section 1. Section 321.40, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When application is made for the renewal of a motor vehicle registration on or after December 1, 1982, the person in whose name the registration is recorded shall notify the county treasurer of the type of fuel used by the vehicle if the type of fuel used is different from that which is shown on the registration receipt. If a motor vehicle registration indicates that the vehicle uses or may use a special fuel as defined in chapter 324 the county treasurer shall issue a special fuel user identification sticker. The person who owns or controls the vehicle shall affix the sticker in a prominent place on the vehicle adjacent to the place where the special fuel is delivered into the motor vehicle fuel supply tank.

Sec. 2. Section 321.41, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a motor vehicle is modified to use a different fuel type or to use more than one fuel type the person in whose name the vehicle is registered shall within thirty days notify the county treasurer of the county in which the registration of the vehicle is of record of the new fuel type or alternative fuel types. The county treasurer shall make the record of such changes available to the department of revenue. If the vehicle uses or may use a special fuel the county treasurer shall issue a special fuel identification sticker.

Sec. 3. Section 324.33, subsection 2, Code 1981, is 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, except that with respect to natural gas used as a special fuel "use" means the receipt, delivery or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

Sec. 4. Section 324.33, subsection 5, Code 1981, is amended to read as follows:

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 the person into the fuel supply tank of a motor vehicle or commercial motor vehicle owned or controlled by the person. A licensed special fuel user shall make bulk purchases of special fuel for highway use only from a licensed special fuel distributor, except that a licensed special fuel user may purchase natural gas for highway use as a special fuel from the piped distribution system of a public utility or a pipeline company. The sale of natural gas by a public utility or a pipeline company is not a sale of

special fuel requiring a special fuel distributor's license.

Sec. 5. Section 324.34, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For natural gas used as a special fuel the rate of tax that is equivalent to the motor fuel tax shall be ten and one-half cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute. The tax on natural gas shall attach at the time of delivery into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle and shall be paid over to the department of revenue by the person operating the compressing equipment under the applicable provisions for users or dealers. Natural gas used as a special fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture.

Sec. 6. Section 324.34, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person shall not deliver any special fuel into the fuel supply tank of a motor vehicle registered in Iowa on or after March 15, 1983 unless there is a special fuel user identification sticker affixed in a prominent place on the vehicle adjacent to the place where the special fuel is delivered into the tank or unless the motor vehicle is registered under chapter 326.

Sec. 7. Section 324.34, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Except for deliveries to a licensed special fuel dealer or licensed special fuel user or deliveries on which the special fuel tax is paid at the time of delivery it is unlawful to deliver liquefied petroleum gas into any tank which has a valve or other outlet capable of transferring the liquefied petroleum gas into the fuel supply tank of a motor vehicle unless the person making the delivery receives a written statement from the recipient of the fuel which states that the recipient knows that the use of liquefied petroleum gas for highway purposes is unlawful.

Approved May 12, 1982

CHAPTER 1219

MERGER OF BENEFITED WATER DISTRICTS

S.F. 2213

AN ACT to allow a county board of supervisors to merge benefited water districts into a single district.

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

Section 1. Chapter 357, Code 1981, is amended by adding the following new section:

NEW SECTION. MERGING EXISTING DISTRICTS. When the source of supply for a benefited district is obtained wholly or partly through another benefited district or if districts

are supplied with their water from a common source, the board of supervisors having jurisdiction of those benefited districts, shall, upon ten days written notice to the trustees, hold a hearing relative to the establishment of a single benefited water district with a boundary encompassing all the area within the subject districts. If the board finds the residents and property owners in the proposed district would be benefited, it may establish the single district by resolution. In the case of districts with outstanding warrants in excess of the anticipated revenues and cash balance within the district fund, an assessment shall be drawn up by the auditor for an amount approximately fifty-five percent of the total indebtedness of the district and the board of supervisors must approve by resolution the final assessment as made and cause bonds to be issued at approximately ten percent greater than the total indebtedness of the district in accordance with sections 357.20 and 357.21 except that the bonds shall be paid, approximately equally, from user charges and the assessment. In the case of districts with bonded indebtedness, a subarea of the new single district with a boundary identical to each indebted district shall be designated and taxed in accordance with sections 357.22 and 357.23. When all bonds have been retired, the subarea shall cease to exist. In the case of districts with a surplus cash balance, all funds and credits shall become the property of the single district and used by it to the same extent as if acquired under the provisions of section 357.26. Upon establishment of the single district by the board of supervisors, a resolution shall be passed either appointing three trustees or designating the board of supervisors as the trustees for the single district. The operation of the single district constitutes a county enterprise under section 331.461, subsection 1, Code 1981 Supplement.

Sec. 2. Section 331.461, subsection 1, paragraph f, Code 1981 Supplement, is amended to read as follows:

f. A waterworks or single benefited water district under section 1 of this Act, including land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the waterworks or district.

Approved May 11, 1982

CHAPTER 1220

PERMANENT SOIL CONSERVATION PRACTICES

S.F. 2286

AN ACT relating to the maintenance of permanent soil conservation practices established with public cost-sharing funds.

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

Section 1. Section 467A.7, subsection 16, Code 1981, is amended to read as follows:

16. The commissioners shall, as a condition for the receipt of any state cost-sharing funds for permanent soil conservation practices, require the owner of the land on which the practices are to be established to covenant and file, in the office of the soil conservation district of the

county in which the land is located, an agreement identifying the particular lands upon which the practices for which state cost-sharing funds are to be received will be established and providing that ~~if~~ the project ~~is~~ will not be removed, altered, or modified so as to lessen its effectiveness without the consent of the commissioners, obtained in advance and based on guidelines drawn up by the state soil conservation committee, for a period of twenty years after the date of receiving payment, ~~the owner of the land on which the practices have been so removed, altered or modified shall refund to the department of soil conservation the state cost sharing funds used for the project, or for the portion of the project which has been removed, altered or modified so as to lessen its effectiveness. Such refunds shall be computed on a pro rata basis in accordance with guidelines drawn up by the state soil conservation committee in accordance with the age and anticipated remaining useful life of the project, and shall be reallocated to the district from which they were refunded to be used for conservation cost sharing.~~ The commissioners shall assist the state soil conservation committee in the enforcement of this subsection. The agreement ~~to refund~~ shall not create a lien on the land, but shall be a charge personally against the owner of the land at the time of removal, alteration or modification if an administrative order is made under section 2 of this Act ~~which gives rise to the need for a refund. Each soil conservation district which has entered into agreements under this subsection shall file in the office of the county recorder a statement that there are in effect in that county certain agreements covenanted under this subsection which place upon owners of agricultural land the obligation to maintain permanent soil conservation practices established with public cost-sharing money, and that failure to do so may result in an obligation to refund a portion of the public cost-sharing money used to establish the practices. A seller of agricultural land with respect to which an agreement covenanted under this subsection is in effect, and who is not currently in violation of that agreement, shall upon request to the commissioners be furnished with a written statement that, as of the date of the statement, the seller has incurred no obligation to refund to the department of soil conservation the state cost-sharing funds obtained pursuant to the agreement.~~

Sec. 2. Section 467A.61, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. The commissioners may also cause an inspection of land within the district on which they have reasonable grounds to believe that a permanent soil and water conservation practice established with public cost-sharing funds is not being properly maintained or is being altered in violation of section 467A.7, subsection 16. If the commissioners find that the practices are not being maintained or have been altered in violation of section 467A.7, subsection 16, the commissioners shall issue an administrative order to the landowner who made the unauthorized removal, alteration or modification to maintain, repair, or reconstruct the permanent soil and water conservation practices. The requirement for maintenance and repair is for the length of life as defined in section 467A.7, subsection 16. Public cost-sharing funds are not available for the work under this order. If the landowner fails to comply with the administrative order, the commissioners may petition the district court for an order compelling compliance with the order. Upon receiving satisfactory proof, the court shall issue an order directing compliance with the administrative order and may modify the administrative order. The provisions of section 467A.50 relating to notice, appeals and contempt of court shall apply to proceedings under this subsection.

Approved May 10, 1982

CHAPTER 1221

CORPORATE OFFICERS' EXEMPTION FROM WORKERS' COMPENSATION LAW

H.F. 2355

AN ACT to exempt from the workers' compensation law named corporate officers after signing and filing an acceptance of exemption and agricultural employers whose total payroll to nonexempt employees is less than two thousand five hundred dollars.

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

Section 1. Section 85.1, subsection 3, paragraph a, Code 1981, is amended to read as follows:

a. This chapter ~~shall apply~~ applies to ~~such~~ persons not specifically exempted by paragraph "b" of this subsection if at the time of injury ~~such~~ the person is employed by an employer whose total cash payroll to one or more persons other than those exempted by paragraph "b" of this subsection amounted to ~~one~~ two thousand five hundred dollars or more during the preceding calendar year.

Sec. 2. Section 85.61, subsection 3, Code 1981, is amended by adding the following new paragraph:

NEW PARAGRAPH. The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, but not to exceed four officers per corporation and only if such an officer signs an acceptance of exemption which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the industrial commissioner on or before sixty days after the first day of employment. For each calendar year thereafter the acceptance of exemption shall be signed and filed on or before January 1. An acceptance of exemption filed under this section is not enforceable if it is required as a condition of employment. In order to ensure that the acceptance of exemption is knowingly and voluntarily signed, the acceptance of exemption shall be in substantially the following form:

ACCEPTANCE OF EXEMPTION

I understand that by signing this statement I accept my exemption from chapter 85 of the Code of Iowa relating to workers' compensation. (Check either alternative (1) or (2):)

(1) The corporation has made available to me for review and I have reviewed other insurance provided to pay certain benefits to me for personal injuries sustained by me arising out of and in the course of my employment and I accept this insurance in lieu of workers' compensation coverage under chapter 85 of the Code of Iowa.

(2) I am aware that the corporation does not provide other insurance to pay compensation benefits to me for personal injuries sustained by me and arising out of and in the course of my employment, and knowing that other insurance is not provided, I accept my exemption from chapter 85 of the Code of Iowa.

I understand that my acceptance of my exemption from chapter 85 under either alternative (1) or (2) is not a waiver of any rights or remedies available to me or to others on my behalf in a

civil action related to personal injuries sustained by me arising out of and in the course of my employment with the corporation.

Signed _____

Corporate Office _____

Date _____

City, County, State of Residence _____

Witness _____

Witness _____

Notwithstanding the signing and filing of a valid acceptance of exemption under this paragraph, a corporation may voluntarily assume by the purchase of workers' compensation insurance specifically covering a corporate officer a liability for workers' compensation imposed upon the corporation by this chapter. If such voluntary coverage is in effect, workers' compensation benefits are the exclusive remedy available to the corporate officer as provided in section 85.20.

Sec. 3. Section 87.21, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Any employer, except an employer exempt as provided in section 85.1 or a corporation exempt with respect to a corporate officer as provided in section 2 of this Act, who has failed to insure the employer's liability in one of the ways provided in this chapter, unless relieved from carrying such insurance as provided in section 87.11, ~~shall be~~ is liable to an employee for a personal injury in the course of and arising out of ~~such~~ the employment, and the employee may enforce ~~such~~ the liability by an action at law for damages, or may collect compensation as provided in chapters 85 and 86. In actions by the employee for damages under ~~the terms of~~ this section, the following rules ~~shall~~ apply:

Sec. 4. This Act takes effect January 1 following enactment. A corporate officer employed on or before the effective date of this Act who chooses to sign an acceptance of exemption under section 2 of this Act shall sign, and the corporation shall file, the acceptance of exemption on or before sixty days after the effective date of this Act.

Approved May 10, 1982

CHAPTER 1222

GRINNELL-NEWBURG SCHOOL DISTRICT LEGALIZING ACT

S.F. 2303

AN ACT to legalize the proceedings of the Grinnell- Newburg community school district relating to the sale of certain property.

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

Section 1. All proceedings taken by the board of directors of the Grinnell-Newburg community school district relating to the sale to Donald C. Williams by quit claim deed dated April 25, 1961, of the property legally described as: Lot D in the East Half of the Northeast Quarter, according to the Plat thereof appearing of record in Plat Book B page 165, and Lot Three in the Southwest Quarter of the Northeast Quarter, according to the Plat thereof appearing of record in Plat Book D page 170, all being in Section 18, Township Eighty North, Range Sixteen West of the 5th P.M. are legalized and shall constitute a legal sale of the above described property.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Grinnell Herald-Register, a newspaper published in Grinnell, Iowa, and in The Montezuma Republican, a newspaper published in Montezuma, Iowa, without expense to the state.

Approved May 21, 1982

I hereby certify that the foregoing Act, Senate File 2303 was published in the Grinnell Herald-Register, Grinnell, Iowa on May 27, 1982 and in The Montezuma Republican, Montezuma, Iowa on June 3, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1223

SOUTHEAST IOWA REGIONAL PLANNING COMMISSION LEGALIZING ACT

S.F. 2298

AN ACT to legalize the action of the southeast Iowa regional planning commission allowing its employees to be optional members of the Iowa public employees' retirement system prior to October 1, 1981, effective upon publication.

WHEREAS, prior to October 1, 1981, the directors of the southeast Iowa regional planning commission believed that its employees could elect whether to be members of the Iowa public employees' retirement system; and

WHEREAS, section 97B.41, subsection 3, defines regional planning commissions created

under chapter 473A as being "employers" under chapter 97B; and

WHEREAS, the eligible employees at the southeast Iowa regional planning commission should under chapter 97B be members of the Iowa public employees' retirement system; and

WHEREAS, on and after October 1, 1981, the director of the southeast Iowa regional planning commission requires its eligible employees to be members of the Iowa public employees' retirement system; NOW THEREFORE,

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

Section 1. That the action of the southeast Iowa regional planning commission prior to October 1, 1981, of allowing its employees to elect whether to be members of the Iowa public employees' retirement system is validated, legalized, and confirmed.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in The Boone News-Republican, a newspaper published in Boone, Iowa, and in The Madrid Register-News, a newspaper published in Madrid, Iowa.

Approved May 19, 1982

I hereby certify that the foregoing Act, Senate File 2298 was published in The Boone News-Republican, Boone, Iowa on May 26, 1982 and in The Madrid Register-News, Madrid, Iowa on May 27, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1224

JOINT COUNTY INDIGENT DEFENSE FUND

S.F. 2308

AN ACT authorizing two or more counties to establish a joint indigent defense fund.

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

Section 1. Chapter 331, division IV, part 2, Code 1981 Supplement, is amended by adding the following new section:

NEW SECTION. JOINT COUNTY INDIGENT DEFENSE FUND.

1. Two or more counties may execute an agreement under chapter 28E to create a joint county indigent defense fund to be used to compensate attorneys appointed to represent indigents under section 331.778 when funds budgeted for that purpose are exhausted. In addition to other requirements of an agreement under chapter 28E, the agreement shall provide for the amount to be paid by each county based on its population to establish and maintain an appropriate balance in the joint fund, and for a method of repayment if a county withdraws more funds than it has contributed.

2. The amount to be paid by each county under the agreement may be paid from property taxes levied or from any other funds available to the county for that purpose.

Sec. 2. Section 331.422, Code 1981 Supplement, is amended by adding the following new

subsection after subsection 24 and renumbering the remaining subsections:

NEW SUBSECTION. For a joint county indigent defense fund, an amount sufficient to make its per capita payment to the fund or to repay excess funds withdrawn from the fund as provided in a joint agreement executed under chapter 28E for the purposes specified in section 1 of this Act.

Approved May 21, 1982

CHAPTER 1225

STATE USE TAX ON OPTIONAL SERVICE OR WARRANTY CONTRACTS

S.F. 2292

AN ACT relating to the taxation of the use of certain optional service and maintenance contracts which provide for the furnishing of labor and materials for a fixed price.

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

Section 1. Section 423.1, subsection 4, Code 1981, is amended to read as follows:

4. "Tangible personal property" means tangible goods, wares, ~~and~~ merchandise, optional service or warranty contracts, and gas, electricity, and water when furnished or delivered to consumers or users within this state.

Approved May 13, 1982

CHAPTER 1226

STATE INCOME TAXATION OF NONRESIDENTS AND PART-YEAR RESIDENTS

S.F. 2309

AN ACT relating to the taxation of nonresidents and part-year residents under the state individual income tax law and making it retroactive.

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

Section 1. Section 422.5, unnumbered paragraph 1, Code 1981, is amended to read as follows:

A tax is ~~hereby~~ imposed upon every resident and nonresident of the state~~, and upon that part of the taxable income of any nonresident which is derived from any property, trust, or~~

~~other source within this state, including any business, trade, profession, or occupation carried on within this state,~~ which tax shall be levied, collected, and paid annually upon and with respect to ~~his~~ the entire taxable income as ~~herein~~ defined in this division at rates as follows:

Sec. 2. Section 422.5, Code 1981, is amended by adding after subsection 13 the following new subsection:

NEW SUBSECTION. The tax imposed upon the taxable income of a nonresident shall be computed by reducing the amount determined pursuant to subsections 1 through 13 by the amounts of nonrefundable credits under this division and by multiplying this resulting amount by a fraction of which the nonresident's net income allocated to Iowa, as determined in section 422.8, subsection 2 in section 3 of this Act, is the numerator and the nonresident's total net income computed under section 422.7 is the denominator. This provision also applies to individuals who are residents of Iowa for less than the entire tax year.

Sec. 3. Section 422.8, subsection 2, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

2. Nonresident's net income allocated to Iowa is the net income, or portion thereof, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. If any business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of sections 2 and 5 of this Act and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state. However, income received by an individual who is a resident of another state is not allocated to Iowa if the income is subject to an income tax imposed by the state where the individual resides, and if the state of residence allows a similar exclusion for income received in that state by residents of Iowa. In order to implement the exclusions, the director shall designate by rule the states which allow a similar exclusion for income received by residents of Iowa, and may enter into agreements with other states to provide that similar exclusions will be allowed, and to provide suitable withholding requirements in each state.

Sec. 4. Section 422.9, subsection 3, paragraphs d and e, Code 1981, are amended by striking the paragraphs.

Sec. 5. Section 422.13, Code 1981, is amended to read as follows:

422.13 RETURN BY INDIVIDUAL.

1. Every resident and nonresident of this state shall make and sign a return if any of the following are applicable:

a. The ~~resident~~ individual is required to file a federal income tax return under the Internal Revenue Code of 1954.

b. The ~~resident~~ individual has net income of four thousand dollars or more for the tax year from sources taxable under this division.

c. The ~~resident~~ individual is claimed as a dependent on another person's return and has net income of three thousand dollars or more for the tax year from sources taxable under this division.

~~2. Every nonresident shall make and sign a return if either of the following are applicable:~~

~~a. The nonresident is required to file a federal income tax return under the Internal Revenue Code of 1954 and has net income of four thousand dollars or more for the tax year from sources taxable under this division.~~

~~b. The nonresident is claimed as a dependent on another person's return and is required to file a federal income tax return under the Internal Revenue Code of 1954 and has net income of three thousand dollars or more for the tax year from sources taxable under this division.~~

d. However, if that part of the net income of a nonresident which is allocated to Iowa pursuant to section 422.8, subsection 2 in section 3 of this Act is less than five hundred dollars the nonresident is not required to make and sign a return.

~~3~~ 2. For purposes of determining the requirement for filing a return under ~~subsections 1 and 2 of this section~~ subsection 1, the combined net income of a husband and wife from sources taxable under this division shall be considered.

~~4~~ 3. If the taxpayer is unable to make ~~his own~~ the return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of ~~such~~ the taxpayer.

~~5~~ 4. A nonresident taxpayer shall file a copy of ~~his~~ the taxpayer's federal income tax return for the current tax year with the return required by this section.

Sec. 6. This Act is retroactive to January 1, 1982 for tax years beginning on or after January 1, 1982.

Approved May 13, 1982

CHAPTER 1227

USES OF ELDERLY SERVICES FUNDS

H.F. 2446

AN ACT to expand the allowable uses of state elderly services program funds to include elderly services approved by an area agency on aging.

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

Section 1. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 1, subsection 5, unnumbered paragraph 2, is amended to read as follows:

All funds appropriated under this subsection shall be received and disbursed by the commission in accordance with sections 249B.15 through 249B.21, shall not be used for administrative purposes, and shall be used for citizens of Iowa over sixty-five years of age ~~for~~ to increase the availability of chore, telephone reassurance, adult day care, ~~and~~ home repair ~~services~~, including the winterizing of homes, and ~~for~~ the construction of entrance ramps which meet the requirements of section 104A.4 and make residences accessible to the physically handicapped, and other elderly services. Funds appropriated under this subsection may be used for elderly services not specifically enumerated in this paragraph only if approved by an area agency on aging for provision of the services within the area. Funds appropriated under this subsection may be used to supplement federal funds under federal regulations, 45 CFR 1321.77, as amended by 45 Federal Register p. 21155 (March 31, 1980).

Sec. 2. Section 249B.16, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The purpose of the elderly care program is to reduce the need and incidence of institutionalization of elderly Iowans by encouraging community involvement in the provision of services which help elderly Iowans remain in their own homes and to increase the availability to elderly Iowans of chore, telephone reassurance, adult day care, home repair, and other elderly services if the other elderly services are approved by an area agency on aging for provision within the area. The elderly care program is established to fund those local innovative projects, with a minimum of state regulation, which demonstrate local input in their planning, funding, and general operations. The program shall give preference to projects and services provided for the benefit of the low income elderly. The program is established under the authority of the commission on the aging pursuant to the responsibilities vested in the commission by section 249B.4, subsections 2, 4, 5, 6, and 7.

Sec. 3. The general assembly finds that the ability of elderly persons in this state to maintain self-sufficiency and well-being and to realize their maximum potential is of profound importance, and that the social and health problems of elderly persons are compounded by limited accessibility to existing services and by the unavailability of a complete range of services. In order to better coordinate state and local agency activities and services to elderly persons in this state, the program evaluation division of the legislative fiscal bureau shall conduct an evaluation of the duties of the commission on the aging in chapter 249B of the Code of Iowa relating to interagency planning and coordination of elderly services and report its findings and recommendations to the general assembly by January 1, 1983.

Sec. 4. Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 16, section 2, is repealed.

Approved May 10, 1982

CHAPTER 1228

NOTICE AND HEARING REQUIRED FOR COMMITMENT FOR MENTAL IMPAIRMENT

H.F. 2240

AN ACT relating to the notice and hearing requirements applicable to proceedings for the commitment of persons receiving treatment as outpatients under chapter 229.

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

Section 1. Section 229.14, subsection 3, Code 1981, is amended to read as follows:

3. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court may enter an order directing the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment as directed by the court's order, ~~he or she shall be taken into custody and~~

the court may order that the respondent be taken into immediate custody as provided by section 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated as a patient requiring full-time custody, care and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated ~~he or she~~ the respondent is willing to submit to treatment on another basis as ordered by the court.

Sec. 2. Section 229.15, subsection 2, Code 1981, is amended to read as follows:

2. Not more than sixty days after the entry of a court order for treatment of a patient under section 229.14, subsection 3, and thereafter at successive intervals as ordered by the court but not to exceed ninety days so long as that court order remains in effect, the medical director of the facility treating the patient shall report to the court which entered the order. The report shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will require treatment by the facility. If at any time the patient without good cause fails or refuses to submit to treatment as ordered by the court, the medical director shall at once so notify the court, which shall order the patient hospitalized as provided by section 229.14, subsection 3, unless the court finds that the failure or refusal was with good cause and that the patient is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If at any time the medical director ~~at any time~~ reports to the court that in ~~his~~ the director's opinion the patient requires full-time custody, care and treatment in a hospital, and the patient is willing to be admitted voluntarily to the hospital for these purposes, the court may ~~order the patient's involuntary~~ enter an order approving hospitalization for appropriate treatment upon consultation with the chief medical officer of the hospital in which the patient is to be hospitalized. If the patient is unwilling to be admitted voluntarily to the hospital, the procedure for determining involuntary hospitalization, as set out in section 229.14, subsection 3, in section 1 of this Act shall be followed.

Approved May 7, 1982

CHAPTER 1229

CITY OF MOUNT PLEASANT LEGALIZING ACT

H.F. 2499

AN ACT to legalize the proceedings of the City Council of the City of Mount Pleasant relating to the sale of property to the Henry county industrial development corporation.

WHEREAS, the City Council of the City of Mount Pleasant sold the following described property to the Henry county industrial development corporation:

Tract B: Commencing at the NE corner of Section 10, Twp. 71 North, Range 6 West, Henry County, Iowa; thence S89 deg. 49'30"W along the section line a distance of 917.0 feet to the point of beginning thence SO deg. 00'E a distance of 1100.0 feet; thence S89 deg. 49'30"W a distance of 1200.0 feet; thence NO deg. 00'E a distance of 1100.0 feet to a point on the north line of said section 10, thence N89 deg. 49'30"E along the section line a distance of 1200.0 feet to the point of beginning, containing 30.303 acres more or less of which approximately 1.377 acres is established highway right-of-way.

Tract C: Commencing at the NE corner of Section 10, Twp. 71 North, Range 6 West, Henry County, Iowa; thence S89 deg. 49'30"W along the section line a distance of 917.0 feet; thence SO deg 00'E a distance of 1100.0 feet to the point of beginning; thence SO deg. 00'E a distance of 1771.0 feet to a point on the north right-of-way line of the Burlington-Northern Railroad; thence N71 deg. 08'20"W along said right-of-way line a distance of 1268.1 feet thence NO deg. 00'E a distance of 1357.5 feet; thence N89 deg. 49'30"E a distance of 1200.0 feet to the point of beginning, containing 43.091 acres more or less.

Tract D: Commencing at the NE corner of Section 10, Twp. 71 North, Range 6 West, Henry County, Iowa; thence S89 deg. 49'30"W along the section line a distance of 2117.0 feet to the point of beginning; thence SO deg. 00'E a distance of 2457.5 feet to a point on the north right-of-way line of the Burlington-Northern Railroad; thence N71 deg. 08'20"W along said north right-of-way line a distance of 105.67 feet; thence NO deg. 00'E a distance of 2423.03 feet to a point on the north line of said section 10, thence N89 deg. 49'30"E a distance of 100.0 feet to the point of beginning, containing 5.602 acres more or less of which approximately 0.115 acre is present highway right-of-way; and

WHEREAS, the City failed to publish notice of the sale as required under section 362.3 and section 364.7; and

WHEREAS, some doubt has arisen as to the validity of the sale of the property and the merchantability of the title and the doubts may raise an issue concerning the merchantability of the title and the sale should be legalized and the matter once and for all should be put to rest and all issues resolved; 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 Mount Pleasant relating to the sale of the property described in this act to the Henry county industrial development corporation are validated, legalized, and confirmed and shall constitute a valid, legal, and binding sale of the property.

Approved May 10, 1982

CHAPTER 1230

MERGED AREA LEASE AGREEMENTS

H.F. 2411

AN ACT eliminating the requirement that every merged area lease agreement be approved by the state board of public instruction, and requiring approval for only agreements that extend for more than ten years or agreements that are for over twenty-five thousand dollars per year.

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

Section 1. Section 280A.38, Code 1981, is amended to read as follows:

280A.38 LEASE AGREEMENTS FOR SPACE. The board of directors may, with the approval of the state board, enter into lease agreements, with or without purchase options, not to exceed twenty years in duration, for the leasing or rental of buildings for use basically as classrooms, laboratories, shops, libraries and study halls for vocational school or community college purposes, and pay for the same with funds acquired pursuant to section 280A.17, section 280A.18, and section 280A.22. However, lease agreements extending for less than ten years and for less than twenty-five thousand dollars per year need not be submitted to the state board for approval.

~~Such~~ The agreements may include the leasing of existing buildings on public or private property, buildings to be constructed upon real estate owned by the area school, or buildings to be placed upon real estate owned by the area school.

Before entering into a lease agreement with a purchase option for a building to be constructed, or placed, upon real estate owned by the area school, the board shall first adopt plans and specifications for the proposed building which it considers suitable for the intended use, and the board shall also adopt the proposed terms of the lease agreement and purchase option. Upon obtaining the approval of the state board, if state board approval is required, the board shall invite bids thereon, by advertisement published once each week for two consecutive weeks in the county where the building is to be located. ~~Such~~ The lease agreement shall be awarded to the lowest responsible bidder, or the board may reject all bids and readvertise for new bids.

Approved May 7, 1982

CHAPTER 1231

PREPAYMENT OF INSURANCE PREMIUM TAXES

S.F. 2288

AN ACT relating to the prepayment of premium taxes by insurance companies.

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

Section 1. Section 432.1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 142, section 1, is amended by striking subsection 4 and inserting in lieu thereof the following:

4. Each insurance company and association transacting business in this state whose Iowa premium tax liability for the preceding calendar year was one thousand dollars or more shall remit on or before June 1, on a prepayment basis, an amount equal to one-half of the premium tax liability for the preceding calendar year. The sums prepaid by a company or association under this subsection shall be allowed as credits against its premium tax liability for the calendar year during which the payments are made. If a prepayment made under this subsection exceeds the annual premium tax liability, the excess shall be allowed as a credit against subsequent prepayment or tax liabilities. The commissioner may suspend or revoke the license of a company or association that fails to make a prepayment on or before the due date.

Approved May 12, 1982

CHAPTER 1232

STATE COST PER PUPIL INCREASE

S.F. 2146

AN ACT to increase the state cost per pupil by six dollars for the school year beginning July 1, 1982, taking effect upon publication.

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

Section 1. Section 442.8, unnumbered paragraph 2, Code 1981, is amended to read as follows:

However, for the budget years beginning July 1, 1980, July 1, 1982, and July 1, 1983, the state cost per pupil shall equal the base year's state cost per pupil plus the allowable growth for the budget year plus an adjustment to the state cost per pupil. For the budget years beginning July 1, 1980, July 1, 1982, and July 1, 1983, the adjustment to the state cost per pupil is twenty dollars per pupil, ~~seven~~ thirteen dollars per pupil, and eight dollars per pupil, respectively.

Sec. 2. This Act, being deemed of immediate importance, takes effect from and after its publication in the Grinnell Herald-Register, a newspaper published in Grinnell, Iowa, and in The Sioux County Index-Reporter, a newspaper published in Hull, Iowa.

Approved May 17, 1982

I hereby certify that the foregoing Act, Senate File 2146 was published in the Grinnell Herald-Register, Grinnell, Iowa on May 24, 1982 and in The Sioux County Index-Reporter, Hull, Iowa on May 26, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1233

SCHOOL DISTRICTS BUDGET GUARANTEE

S.F. 2302

AN ACT to continue the one hundred percent budget guarantee of school districts for the school year commencing July 1, 1983.

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

Section 1. Section 442.4, subsection 4, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 94, section 4, is amended to read as follows:

4. For the school years beginning July 1, 1980, July 1, 1981, ~~and~~ July 1, 1982, and July 1, 1983 only, if an amount equal to the district cost per pupil for the budget year minus the amount included in the district cost per pupil for the budget year to compensate for the cost of special education support services for a school district times the budget enrollment of the school district for the budget year is less than one hundred four percent for the budget school year beginning July 1, 1980, one hundred three percent for the budget school year beginning July 1, 1981, and one hundred percent for the budget school ~~year~~ years beginning July 1, 1982 and July 1, 1983, times an amount equal to the district cost per pupil for the base year minus the amount included in the district cost per pupil for the base year to compensate for the cost of special education support services for a school district times the adjusted enrollment of the school district for the base year beginning July 1, 1979 or times the budget enrollment of the school district for the base year beginning July 1, 1980 or ~~July 1, 1981~~ thereafter, the state comptroller shall increase the budget enrollment for the school district for the budget year to a number which will provide that one hundred four percent amount for the budget school year beginning July 1, 1980, that one hundred three percent amount for the budget school year beginning July 1, 1981, and that one hundred percent amount for the budget school ~~year~~ years beginning July 1, 1982 and July 1, 1983.

Approved May 17, 1982

CHAPTER 1234

CORPORATE TAX APPORTIONMENT OF BUSINESS INCOME

S.F. 2293

AN ACT relating to the apportionment of business income for corporate income tax purposes.

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

Section 1. Section 422.33, subsection 1, paragraph b, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 135, section 2, is amended by inserting after subparagraph (4) the following new subparagraph and renumbering the remaining subparagraph:

NEW SUBPARAGRAPH. (5) Where income consists of more than one class of income as provided in subparagraphs (1) through (4) of this paragraph, it shall be reasonably apportioned by the business activity ratio provided in rules adopted by the director.

Approved May 14, 1982

CHAPTER 1235

ASSIGNMENTS OF INSTRUMENTS AND ACCOUNTS

H.F. 777

AN ACT relating to assignments of instruments and accounts.

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

Section 1. Section 539.1, Code 1981, is amended to read as follows:

539.1 ASSIGNMENT OF NONNEGOTIABLE INSTRUMENTS. Bonds, due bills, and all instruments by which the maker promises to pay another, without words of negotiability, a sum of money, or by which ~~he~~ the maker promises to pay a sum of money in property or labor, or to pay or deliver any property or labor, or acknowledges any money, labor, or property to be due, are assignable by endorsement ~~thereon~~ on the instrument, or by other writing~~, and the~~. The assignee ~~shall have~~, including a person who takes assignment for collection in the regular course of business, has a right of action ~~thereon~~ on them in ~~his~~ the assignee's own name, subject to any defense or counterclaim which the maker or debtor had against ~~any~~ an assignor ~~thereof~~ of the instrument before notice of ~~such~~ the assignment. In case of conflict between this section and Uniform Commercial Code, sections 554.3805, 554.5116 or 554.9318, those sections control.

Sec. 2. Section 539.3, Code 1981, is amended to read as follows:

539.3 ASSIGNMENT OF OPEN ACCOUNT. An open account of sums of money due on contract may be assigned~~, and the~~. The assignee ~~will have~~, including a person who takes assignment for collection in the regular course of business, has a right of action ~~thereon~~ on the account in ~~his~~ the assignee's own name, subject to ~~such~~ the defenses and counterclaims ~~as are~~ allowed against the instruments mentioned in section 539.2, before notice of ~~such~~ the assignment is given to the debtor in writing by the assignee. In case of conflict Uniform Commercial Code, section 554.9318, controls.

Sec. 3. Section 631.14, Code 1981, is amended to read as follows:

631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS. Actions constituting small claims may be brought or defended by an individual, partnership, association, corporation, or other entity. In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee. A person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539 which assignments constitute small claims may bring an action on an assigned instrument or account in the person's own name and need not be represented by an attorney. Any person, however, may be represented in small claims action by an attorney.

Approved May 12, 1982

CHAPTER 1236

BAIL PROHIBITED

H.F. 2339

AN ACT to prohibit bail following conviction of, or a plea or verdict of guilty to, certain felonies.

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

Section 1. Section 811.1, subsections 1 and 2, Code 1981, are amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing ~~for~~ following either a plea or verdict of guilty of a class "A" felony, murder, felonious assault, sexual abuse in the second degree, sexual abuse in the third degree in violation of section 709.4, subsections 1 and 3, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree.

2. A defendant appealing a conviction of a class "A" felony, murder, felonious assault, sexual abuse in the second degree, sexual abuse in the third degree in violation of section 709.4, subsections 1 and 3, kidnapping, robbery in the first degree, arson in the first degree, or burglary in the first degree.

Approved May 14, 1982

CHAPTER 1237

RECORDING OF SUPPORT PAYMENTS ASSIGNED TO SOCIAL SERVICES

H.F. 2476

AN ACT relating to the recording of automatic assignments to the department of social services of periodic support payments by recipients of public assistance.

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

Section 1. Section 239.3, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An applicant for assistance under this chapter and other persons covered by an application are deemed to have assigned to the department of social services at the time of application all rights to periodic support payments to the extent of public assistance received by the applicant and other persons covered by the application. An assignment takes effect upon determination that an applicant or another person covered by an application is eligible for assistance under this chapter, applies to both current and accrued

support obligations, and terminates when an applicant or another person covered by an application ceases to receive assistance under this chapter, except with respect to the amount of unpaid support obligations accrued under the assignment. If an applicant or another person covered by an application ceases to receive assistance under this chapter and the applicant or other person covered by the application receives a periodic support payment, the department of social services is entitled only to that amount of the periodic support payment above the current periodic support obligation.

Sec. 2. Section 252A.13, Code 1981, is amended to read as follows:

252A.13 ~~WELFARE~~ RECIPIENTS OF PUBLIC ASSISTANCE—ASSIGNMENT OF SUPPORT PAYMENTS. ~~Persons~~ A person entitled to periodic support payments pursuant to an order or judgment entered in a uniform support action ~~pursuant to~~ under this chapter, who ~~are~~ is also ~~welfare recipients, shall assign their~~ a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of social services. The department shall immediately notify the clerk of court by mail when a person entitled to support payments has been determined to be eligible for public assistance. Upon notification by the department that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. The clerk of court shall forward support payments received pursuant to section 252A.6, to which the department is entitled, to the department, unless the court has ordered the payments made directly to the department under subsection 12 of that section. The department ~~shall have the right to~~ may secure support payments in default through proceedings prescribed in this chapter. The clerk shall furnish the department with copies of all orders or decrees awarding support to parties having custody of minor children when the parties are receiving ~~welfare~~ public assistance.

Sec. 3. Section 252B.3, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of social services may negotiate a partial payment of a support obligation with a parent or other person responsible for the support of the child, provided that the negotiation and partial payment are consistent with applicable federal law and regulation.

Sec. 4. Section 598.34, Code 1981, is amended to read as follows:

598.34 ~~WELFARE~~ RECIPIENTS OF PUBLIC ASSISTANCE—ASSIGNMENT OF SUPPORT PAYMENTS. ~~Persons~~ A person entitled to periodic support payments pursuant to an order or judgment entered in an action for dissolution of marriage, who ~~are~~ is also ~~welfare recipients, shall assign their~~ a recipient of public assistance, is deemed to have assigned the person's rights to ~~such~~ the support payments, to the extent of public assistance received by the person, to the department of social services. The department shall immediately notify the clerk of court by mail when a person entitled to support payments has been determined to be eligible for public assistance. Upon notification by the department that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. The clerk of court shall forward support payments received pursuant to section 598.22, to which the department is entitled, to the department, which ~~shall have the right to~~ may secure support payments in default through proceedings provided for in chapter 252A or section 598.24.

The clerk shall furnish the department with copies of all orders or decrees awarding support to parties having custody of minor children when ~~such~~ the parties are receiving ~~welfare~~ public assistance.

Sec. 5. Section 675.38, Code 1981, is amended to read as follows:

675.38 ~~WELFARE~~ RECIPIENTS OF PUBLIC ASSISTANCE—ASSIGNMENT OF SUPPORT PAYMENTS. ~~Persons~~ A person entitled to periodic support payments pursuant to an order or judgment entered in a paternity action ~~pursuant to~~ under this chapter, who ~~are~~ is also ~~welfare recipients, shall assign their~~ a recipient of public assistance, is deemed to have assigned the person's rights to the support payments, to the extent of public assistance received by the person, to the department of social services. The department shall immediately notify the clerk of court by mail when a person entitled to support payments has been determined to be eligible for public assistance. Upon notification by the department that a person entitled to periodic support payments pursuant to this chapter is receiving public assistance, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. The clerk of court shall forward support payments received pursuant to section 675.25, to which the department is entitled, to the department, which ~~shall have the right to~~ may secure support payments in default through proceedings prescribed in chapter 252A or section 675.37. The clerk shall furnish the department with copies of all orders or decrees awarding support to parties having custody of minor children when the parties are receiving ~~welfare~~ public assistance.

Approved May 19, 1982

CHAPTER 1238

STATE HISTORICAL DEPARTMENT

H.F. 828

AN ACT to redefine the duties of the state historical department and to provide for the appointment of an executive director and a state historical board.

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

Section 1. Section 64.6, subsection 19, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

19. Executive director of the state historical department, one thousand dollars.

Sec. 2. Section 303.1, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

303.1 ESTABLISHMENT OF DEPARTMENT. There is established the Iowa state historical department. There is established a state historical board consisting of seven members appointed by the governor, subject to senate confirmation. The members shall include the following:

1. One member who is an historian employed by an institution of higher learning under the control of the state board of regents.

2. One member who is an historian employed by an institution of higher learning not under the control of the state board of regents.

3. One member who is a professionally-employed archaeologist.

4. Two members selected from recommendations of officers of the state historical society.

5. Two members who represent the general public.

The duties of the board are prescribed in section 303.6.

The term of office of members of the board shall commence and end as provided in section 69.19 and shall be three years.

Sec. 3. Section 303.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The state historical board shall annually elect a ~~chairman~~ chairperson and vice ~~chairman~~ chairperson from its membership, and the executive director ~~of the division of historical museum and archives~~ shall serve as secretary to the board. The board shall meet as often as deemed necessary, upon the call of the ~~chairman and vice chairman~~ chairperson, or at the request of a majority of the members of the board.

Sec. 4. Section 303.3, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

303.3 EXECUTIVE DIRECTOR. The governor shall appoint an executive director, subject to confirmation by the senate, who may be selected from recommendations submitted by the board. The governor shall appoint the executive director on the basis of professional training and ability to administer the duties of the department and without regard to political affiliation.

The executive director shall serve a three-year term of office commencing and ending as provided in section 69.19.

The salary of the executive director shall be set by the general assembly.

Sec. 5. Section 303.4, Code 1981, is amended to read as follows:

303.4 MEMBERSHIP IN STATE HISTORICAL SOCIETY. The state historical board shall establish rules for membership of the general public in the state historical society, including rules relating to membership fees. Members shall be persons who indicate an interest in the history, progress, and development of the state and who pay the prescribed fee. The members of the state historical society may meet at least one time per year to further the understanding of the history of this state. ~~The election of members of the state historical board, as provided in section 303.1, shall be by mailed ballot as provided in bylaws adopted by the society and approved by the state historical board.~~ The society may elect officers, and the executive director ~~of the division~~ of the state historical ~~society~~ department, or the executive director's designee, shall serve as secretary to the society. The officers of the society shall not determine policy for the ~~division of the~~ state historical ~~society~~ department but may perform functions to stimulate interest in the history of this state among the general public. The society may perform other activities related to history which are not contrary to ~~the provisions of~~ this chapter, subject to the approval of the state historical board.

1. ~~It is the intent of the general assembly that, as~~ As used in this chapter, "state historical society" means ~~only~~ the ~~division of the~~ Iowa state historical ~~department~~ society, an agency ~~solely~~ of the state~~, which is denominated the division of the state historical society~~ located in Iowa City. It does not mean or include any private entity.

~~2. A corporation organized under the laws of this state shall not exercise any powers or duties exercisable by law by the Iowa state historical department and its divisions. If a corporation exercises or attempts to exercise these powers or duties, it shall be subject to an equitable suit for involuntary dissolution by any interested person.~~

~~3.~~ 2. Unless ~~specifically~~ designated otherwise, ~~any~~ a gift, bequest, devise, endowment, or grant to or application for membership in the state historical society shall be presumed to be to or in the ~~division of the~~ state historical society of the Iowa state historical department.

Sec. 6. Section 303.5, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

303.5 POWERS AND DUTIES OF EXECUTIVE DIRECTOR. The executive director of the Iowa state historical department shall:

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

2. Organize the activities of the department to provide for the following: archives, museum, library services, historical society, research and publication, historic preservation, microfilming, and public services.

3. Administer and care for the historical building, the centennial building, Montauk, Toolsboro mounds, the Gardner cabin, and other sites under the authority of the department, and maintain collections within these buildings.

4. Coordinate the activities of the department with federal, state, and local agencies.

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

6. Employ necessary personnel under chapter 19A.

7. Administer the archives of the state as defined in section 303.12.

8. Serve as or appoint the state historic preservation officer, certified by the governor pursuant to federal requirements.

9. Develop, implement, and publicize a uniform system of marking state historical, archeological, geological, and legendary sites.

10. Administer, preserve, and inventory the monuments, memorials, and works of art on the grounds and in the buildings at the seat of government in consultation with the Iowa state arts council and the capitol planning commission, and make recommendations annually to the appropriate officer or board.

11. Collect, preserve, organize, classify, interpret, and exhibit materials relevant to the archeology and history of the state and region. Duties prescribed under this subsection will not affect the duties of the state archaeologist as defined in chapter 305A.

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

13. Coordinate the activities of, and provide technical and financial assistance if federal funds are available, to local historical preservation commissions and private parties in accordance with the state plan and programs for historic preservation.

14. Identify and document historic properties.

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

16. Develop standards and criteria for the acquisition of historic properties and for the preservation, restoration, maintenance, operation, and interpretation of properties under the jurisdiction of the state historical department.

17. Perform other duties imposed by law or prescribed by rules of the board.

Sec. 7. Section 303.6, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

303.6 BOARD—POWERS AND DUTIES. The state historical board shall:

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

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

3. Adopt rules under chapter 17A for the effective and efficient operation of the department.

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

5. Have authority to enter into appropriate agreements with the university of northern Iowa, the state university of Iowa, Iowa state university of science and technology, or an accredited private institution as defined in section 261.9 to establish multi-county area research centers, which are in addition to but do not duplicate archives as defined in section 303.12. An area research center shall serve as the depository for the archives of counties and cities and for other unpublished original resource material of a given area to be designated in the agreement.

6. Control all property of the department.

7. Authorize the loan of historical materials and artifacts for display and research at suitable locations within the state.

8. Advise the director with respect to the policies, programs, and procedures of the department.

9. Approve the state preservation plan submitted by the state historic preservation officer.

10. Establish rules for membership in the state historical society, including rules relating to membership fees.

11. Submit biennially to the governor, through the board chairperson, a report of the activities of the department, and an evaluation of the department, its programs, and policies.

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

Sec. 8. Section 303.9, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 11, is amended to read as follows:

303.9 FUNDS RECEIVED BY STATE HISTORICAL DEPARTMENT.

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

2. The department may sell mementos and other items relating to Iowa history and historic sites on the premises of property under control of the department and at the state capitol. The department is not a retailer under chapter 422 and the sale of such items is not a retail sale under chapter 422 and is exempt from the sales tax.

Sec. 9. Section 303.11, unnumbered paragraph 1, Code 1981, is amended to read as follows:

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

Sec. 10. Section 303.12, Code 1981, is amended to read as follows:

303.12 ARCHIVES. Archives means those documents, books, papers, photographs, sound recordings, or similar material produced or received pursuant to law in connection with official government business, which no longer have administrative, legal, or fiscal value to the office having present custody of them, and which have been appraised by the executive director of the ~~historical museum and archives~~ state historical department as having sufficient historical, research, or informational value to warrant permanent preservation. The executive director of the ~~division of historical museum and archives~~ state historical department is the trustee and custodian of the archives of Iowa, except that archives do not include county or municipal archives unless they are voluntarily deposited with the executive director with the written consent of the executive director. The executive director shall prescribe rules for the systematic arrangement of archives as to the proper labeling to indicate the contents and order of filing and the archives must be ~~so~~ labeled before the archives may be transferred to the executive director's custody.

Sec. 11. Section 303.13, Code 1981, is amended to read as follows:

303.13 TRANSFER OF ARCHIVES. The ~~several~~ state, executive, and administrative departments, officers or offices, councils, boards, bureaus, and commissions, may transfer and deliver to the state historical department archives as defined in section 303.12 and as prescribed in the records management manual. Before transferring archives, the office of present custody shall file with the executive director a classified list of the archives being transferred ~~made~~ in ~~such~~ detail as the executive director ~~shall prescribe~~ prescribes. If the executive director, on receipt of the list, and after consultation with the chief executive of the office filing the classified list or with a representative designated by the executive, ~~shall find~~ finds that, according to the records management manual, certain classifications of the archives listed are not of sufficient historical, legal or administrative value to justify permanent preservation, the executive director shall not accept the material for deposit in the state archives.

Sec. 12. Section 303.14, Code 1981, is amended to read as follows:

303.14 REMOVAL OF ORIGINAL. After ~~any~~ archives have been received by the executive director, they shall not be removed from the executive director's custody without ~~his~~ the executive director's consent except in obedience to a subpoena of a court of record or a written order of the state executive council.

The executive director ~~shall~~ is not ~~be~~ required to preserve permanently vouchers, claims, canceled or redeemed state warrants, or duplicate warrant registers~~, respectively,~~ of the state comptroller and the treasurer of state but may, after microfilming, destroy by burning or shredding any ~~such~~ warrants~~,~~ having no historical value, that have been in the executive director's custody for a period of one year and ~~likewise to~~ may destroy by burning or shredding any vouchers, claims and duplicate warrant registers which have been in the director's custody for a period of one year. A properly authenticated reproduction of ~~any such~~ a microfilmed record ~~shall be~~ is admissible in evidence in ~~any~~ a court in this state.

Sec. 13. Section 303.15, Code 1981, is amended to read as follows:

303.15 CERTIFIED COPIES—FEES. Upon request of ~~any~~ a person, the executive director of the ~~division of historical museum and archives or the director of the division of the~~ state historical ~~society~~ department shall make a certified copy of any document, manuscript, or record contained in the archives or in the custody of the ~~division of the~~ state historical ~~society, and when~~ department except where reproduction is inappropriate because of legal, curatorial, or physical considerations. When a copy is properly authenticated it ~~shall have~~ has the same legal effect as though certified by the officer from whose office it was obtained or by the secretary of state. The copy may be made in writing, or by ~~any~~ a suitable photographic process. The executive director shall charge and collect for ~~such~~ copies the fees allowed by law to the official in whose office the document originates for ~~such~~ certified copies. The executive director shall charge a person requesting a search of census records for the purpose of determining genealogy the actual cost of performing the search.

Sec. 14. Section 303.20, subsection 4, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

4. "Department" means the Iowa state historical department.

Sec. 15. Section 303.21, unnumbered paragraph 1, Code 1981, is amended to read as follows:

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

Sec. 16. Section 303.22, Code 1981, is amended to read as follows:

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

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

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

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

Sec. 17. Section 303.23, Code 1981, is amended to read as follows:

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

Sec. 18. Section 303.24, Code 1981, is amended to read as follows:

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

Sec. 19. Section 303.34, subsections 1 and 4, Code 1981, are amended to read as follows:

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

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

Sec. 20. Section 304.3, subsection 2, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

2. The executive director of the Iowa state historical department.

Sec. 21. Section 304.10, Code 1981, is amended to read as follows:

304.10 EXECUTIVE DIRECTOR OF IOWA STATE HISTORICAL ~~MUSEUM AND ARCHIVES~~ DEPARTMENT – DUTIES. All lists and schedules submitted to the commission shall be referred to the executive director of the Iowa state historical ~~museum and archives~~ department, who shall determine whether the records proposed for disposal have value to other agencies of the state or have research or historical value. The executive director ~~of the historical museum and archives~~ shall submit the lists and schedules with ~~his or her~~ recommendations in writing to the commission and the final disposition of the records shall be according to the orders of the commission.

Sec. 22. Section 470.5, Code 1981, is amended to read as follows:

470.5 EXCEPTIONS. This chapter does not apply to buildings ~~currently~~ used on January 1, 1980 by the division of adult corrections of the department of social services as maximum security detention facilities or to the renovation of property nominated to, or entered in the national register of historic places, designated by statute, or included in an established list of historic places compiled by the executive director of the ~~division of historical preservation of the~~ Iowa state historical department.

Sec. 23. Sections 303.7 and 303.8, Code 1981, are repealed.

Sec. 24. The terms of members of the state historical board serving on the effective date of this Act shall expire June 30, 1982. The initial terms of members of the state historical board established in section 1 of this Act shall commence July 1, 1982 and be staggered so that two members shall serve until April 30, 1983, two members shall serve until April 30, 1984, and three members shall serve until April 30, 1985.

The governor shall give preference in appointment of members of the state historical board to members of the state historical board serving on June 30, 1982.

The initial term of office of the executive director shall end April 30, 1985.

Approved May 18, 1982

CHAPTER 1239

ATTEMPTED MURDER AND SECOND DEGREE MURDER PENALTIES

H.F. 2111

AN ACT relating to murder by amending the penalty for the offense of attempted murder and murder in the second degree.

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

Section 1. Section 707.3, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Murder in the second degree is a class "B" felony. However, notwithstanding section 902.9, subsection 1, the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

Sec. 2. Section 707.11, unnumbered paragraph 1, Code 1981, is amended to read as follows:

A person commits a class ~~"C"~~ "B" felony when, with the intent to cause the death of ~~any~~ another person and not under circumstances which would justify the person's actions, the person does any act by which ~~he or she~~ the person expects to set in motion a force or chain of events which will cause or result in the death of ~~such~~ the other person.

Sec. 3. Section 902.3, Code 1981, is amended to read as follows:

902.3 INDETERMINATE SENTENCE. When a judgment of conviction of a felony, other than a class "A" felony is entered against any person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the division of adult corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section 902.9 or section 707.3 nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided.

Approved May 22, 1982

CHAPTER 1240

INTERSTATE GAS, FOOD, AND LODGING SIGNS

H.F. 2250

AN ACT to permit revision of the hours of operations and services required of businesses to qualify for gas, food, and lodging signs which are authorized by the federal government for use on the interstate or freeway primary road system.

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

Section 1. Section 306C.11, subsection 5, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Signs, displays, and devices giving specific information of interest to the traveling public, shall be erected by the department and maintained within the right of way in ~~such~~ the areas, and at appropriate distances from interchanges on the interstate system and freeway primary highways as shall conform with the rules ~~promulgated~~ adopted by the department. ~~Such~~ The rules shall be consistent with national standards promulgated from time to time or as permitted by the appropriate authority of the federal government pursuant to ~~Title 23, section 131, paragraph "f" of the United States Code,~~ 23 U.S.C. sec. 131(f) except as provided in this section. For purposes of this division, "specific information of interest to the traveling public" means only information about public places for outdoor recreation, camping, lodging, eating, and motor fuel and associated services ~~which means the business shall be in continuous operation sixteen hours per day, seven days per week, with telephones and restroom facilities, motor fuel, oil, and water~~, including trade names which have telephone facilities available when the public place is open for business and businesses engaged in selling motor vehicle fuel which have free air for tire inflation and restroom facilities available when the public place is open for business.

Approved May 19, 1982

CHAPTER 1241

COMMUNITY ACTION AGENCIES

H.F. 2437

AN ACT to assure the continuation of human service programs delivered by community action agencies.

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

Section 1. Chapter 7A, Code 1981, is amended by adding sections 3 through 10 of this Act as new sections.

Sec. 2. PURPOSE. It is the purpose of this Act to strengthen, supplement, and coordinate efforts to develop the full potential of each citizen by recognizing certain community action agencies and the continuation of certain human service programs delivered by the community action agencies.

Sec. 3. NEW SECTION. ESTABLISHMENT. The office for planning and programming shall recognize and assist in the designation of certain community action agencies to assist in the delivery of community action programs. If a community action agency is in effect and currently serving an area, that community action agency shall become the designated community action agency for that area. If there is not a designated community action agency in the area a city council or county board of supervisors or any combination of one or more councils or boards may establish a community action agency and may apply to the office for planning and programming for recognition. The council or board or the combination may adopt an ordinance or resolution establishing a community action agency if a community action agency has not been designated.

Sec. 4. NEW SECTION. COMMUNITY ACTION AGENCY BOARD.

1. A recognized community action agency shall be governed by a board of directors composed of at least fifteen members but not more than thirty-three members. The board membership shall be as follows:

a. One-third shall be persons who are currently on a city council or board of supervisors or designees of such persons.

b. One-third shall be persons who according to federal guidelines have incomes at or below poverty level and are elected by such persons, or are representatives elected by such persons.

c. One-third shall be persons who are members or representatives of businesses, industry, labor, religious, welfare, and educational organizations, or other major interest groups. The term of such person shall be not more than three years. Such person shall not serve more than two consecutive terms and shall be elected by a majority of the board members serving pursuant to paragraphs a and b.

2. Notwithstanding subsection 1, a public agency which is acting as a community action agency shall establish an advisory board or may contract with a delegate agency to assist the governing board. The advisory board or delegate agency board shall be composed of the same type of membership as a board of directors under subsection 1. The advisory board or delegate agency board shall comply with the duties required for the board of directors for community action agencies under section 5 of this Act. However, the public agency acting as the community action agency shall determine annual program budget requests.

Sec. 5. NEW SECTION. DUTIES OF BOARD.

1. The governing board, delegate agency board, or advisory board shall:

a. Provide for:

(1) Comprehensive planning of the community action agency.

(2) Local needs assessment surveys conducted by the community action agency.

b. Approve overall program plans and priorities developed by the community action agency.

2. The governing board may:

a. Own, purchase, and dispose of property necessary for the operation of the community action agency.

b. Receive and administer funds and contributions from private or public sources which may be used to support community action programs.

c. Receive and administer funds from a federal or state assistance program pursuant to which a community action agency could serve as a grantee, a contractor, or a sponsor of a project appropriate for inclusion in a community action program.

Sec. 6. NEW SECTION. DUTIES OF COMMUNITY ACTION AGENCY. A community action agency or delegate agency shall:

1. Plan for a community action program by establishing priorities among projects, activities, and areas to provide for the most efficient use of possible resources.

2. Obtain and administer assistance from available sources on a common or cooperative basis, in an attempt to provide additional opportunities to low-income persons.

3. Establish effective procedures by which the concerned low-income persons and area residents may influence the community action programs affecting them by providing for methods of participation in the implementation of the community action programs and by providing technical support to assist persons to secure assistance available from public and private sources.

4. Encourage and support self-help, volunteer, business, labor, and other groups and organizations to assist public officials and agencies in supporting a community action program

which results in the additional use of private resources while developing new employment opportunities, encouraging investments which have an impact on reducing poverty among the poor in areas of concentrated poverty, and providing methods by which low-income persons can work with private organizations, businesses, and institutions in seeking solutions to problems of common concern.

Sec. 7. NEW SECTION. ADMINISTRATION. A community action agency or a delegate agency may administer the components of a community action program when the program is consistent with plans and purposes and applicable law. The community action programs may be projects which are eligible for assistance from any source. The programs shall be developed to meet local needs and may be designed to meet eligibility standards of a federal or state program providing assistance to a plan to meet local needs.

Sec. 8. NEW SECTION. AUDIT. Each community action agency shall be audited annually but shall in no case be required to obtain a duplicate audit to meet the requirements of this section. In lieu of an audit by the auditor of state, the community action agency may contract with or employ a certified public accountant to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections 11.18 and 11.19 and an audit format prescribed by the auditor of state. Copies of each audit shall be furnished to the office for planning and programming within three months following the annual audit.

Sec. 9. NEW SECTION. ALLOCATION OF FINANCIAL ASSISTANCE. The director shall provide financial assistance for community action agencies to implement community action programs, as permitted by the community service block grant received in Iowa and other possible funding sources.

If a political subdivision is the agency, the financial assistance shall be allocated to that political subdivision.

Sec. 10. NEW SECTION. REPORT TO GENERAL ASSEMBLY. The director shall report annually to the general assembly regarding the community action programs conducted within the state.

Sec. 11. Section 7A.2, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Community action agency" means a public agency or a private nonprofit agency which is authorized under its charter or bylaws to receive funds to administer community action programs and is designated by the governor to receive and administer the funds.

NEW SUBSECTION. "Community action program" means a program conducted by a community action agency which includes projects to provide a range of services to improve the conditions of poverty in the area served by the community action agency.

NEW SUBSECTION. "Director" means the director of the office for planning and programming.

NEW SUBSECTION. "Delegate agency" means a subgrantee or contractor selected by the community action agency.

Sec. 12. NEW SECTION. REPEAL AND REVIEW. Sections 2 through 11 of this Act are repealed effective July 1, 1984. The second session of the Seventieth General Assembly meeting in the year 1984 shall review the activities and performance of the actions of the office for planning and programming relating to the policy and purpose of this Act and shall not later than July 1, 1984 make a determination concerning the status and duties of the department.

Approved May 17, 1982

CHAPTER 1242

NONDISCLOSURE OF CONFIDENTIAL COMMUNICATIONS

H.F. 2430

AN ACT adding mental health professionals and physician's assistants to the list of persons who are not required to disclose confidential communications in court proceedings.

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

Section 1. Section 622.10, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~No~~ A practicing attorney, counselor, physician, surgeon, physician's assistant, mental health professional, or the stenographer or confidential clerk of any such person, who obtains ~~such~~ information by reason of ~~his~~ the person's employment, minister of the gospel or priest of any denomination shall not be allowed, in giving testimony, to disclose any confidential communication properly entrusted to ~~him~~ the person in ~~his~~ the person's professional capacity, and necessary and proper to enable ~~him~~ the person to discharge the functions of ~~his~~ the person's office according to the usual course of practice or discipline. ~~Such~~ The prohibition ~~shall~~ does not apply to cases where the person in whose favor the ~~same~~ prohibition is made waives the rights conferred; nor ~~shall such~~ does the prohibition apply~~, as the same relates~~ to physicians or surgeons, physician's assistants, mental health professionals, or to the stenographer or confidential clerk of any ~~such~~ physicians or surgeons, physician's assistants, or mental health professionals, in a civil action ~~to recover damages for personal injuries or wrongful death~~ in which the condition of the person in whose favor ~~such~~ the prohibition is made is an element or factor of the claim or defense of ~~such~~ the person or of any party claiming through or under ~~such~~ the person. ~~Such~~ The evidence ~~shall be~~ is admissible upon trial of the action only as it relates to the condition alleged. If an adverse party desires the oral deposition, either discovery or evidentiary, of ~~any such~~ a physician or surgeon, physician's assistant, or mental health professional to which ~~such~~ the prohibition would otherwise apply or the stenographer or confidential clerk of ~~any such~~ a physician or surgeon, physician's assistant, or mental health professional or desires to call ~~any such~~ a physician or surgeon, physician's assistant, or mental health professional to which ~~such~~ the prohibition would otherwise apply or the stenographer or confidential clerk of ~~any such~~ a physician or surgeon, physician's assistant, or mental health professional as a witness at the trial of the action, ~~he~~ the adverse party shall file an application with the court for permission to do so. The court upon hearing, which shall not be ex parte, shall grant ~~such~~ permission unless the court finds that the evidence sought does not relate to the condition alleged and shall fix a reasonable fee to be paid to ~~such~~ the physician or surgeon, physician's assistant, or mental health professional by the party taking the deposition or calling the witness. For the purposes of this section, "mental health professional" means psychologists certified under chapter 154B, registered nurses licensed under chapter 152, or individuals holding at least a master's degree in social work or counseling and guidance.

Approved May 17, 1982

CHAPTER 1243

SOIL CONSERVATION LOAN PROGRAM

H.F. 2363

AN ACT relating to the establishment of a soil conservation loan program by the Iowa family farm development authority, allowing the authority to issue its bonds and notes for the program, and making coordinating amendments.

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

Section 1. Chapter 175, Code 1981, is amended by adding the following new section:

NEW SECTION. SOIL CONSERVATION LOAN PROGRAM.

1. The authority shall establish a soil conservation loan program to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land within the state by making financing for this program available to credit worthy owners or operators of agricultural land within the state. The authority may provide this financing under the program by direct loans, loans to lenders, and the purchase of loans in the manner provided in sections 175.13 through 175.15, except that the financing pursuant to these sections shall not be limited to beginning farmers. In addition under the program, the authority may enter into a loan agreement with the owner or operator to finance in whole or in part the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment for agricultural land in the state. The repayment obligation of the owner or operator may be unsecured, or may be secured by a mortgage or security agreement or by other security as the authority deems advisable, and may be evidenced by one or more notes of the owner or operator. The loan agreement may contain terms and conditions as the authority deems advisable.

2. In addition to the other conditions and criteria established for the soil conservation loan program, the following apply:

a. Loans made pursuant to the soil conservation loan program shall only be made to the owner or operator of a farm located within the state for which a conservation plan has been developed by the soil conservation district and the project for which the loan is to be made has been approved by the district. However, loans under the soil conservation loan program for implementation of a permanent soil and water conservation practice shall not be remitted to the applicant until the applicant provides evidence that payment of the permanent soil and water conservation practice is arranged for and the soil conservation district certifies that the practice is completed and approved.

b. The program and financing provided pursuant to the program shall not be limited to beginning farmers but shall be available to all credit worthy owners or operators of agricultural land within the state, however in providing financing for the acquisition of conservation farm equipment preference shall be given those owners or operators of agricultural land who have the lower net worths.

c. The department of soil conservation or any other state agency and the commissioners and staffs of the soil conservation districts are authorized to provide technical and financial assistance to the authority or in connection with the soil conservation loan program to assure the success of this program.

d. The amount of financing that may be provided under the soil conservation loan program shall not exceed the cost of implementing the permanent soil and water conservation practice or of acquiring the conservation farm equipment which the owner or operator is seeking to implement or acquire less any amounts the owner or operator will receive in public cost-sharing funds under chapter 467A or other provisions of state or federal law for such implementation or acquisition. However, the maximum amount of loans that an owner or operator may receive in one year pursuant to this program shall not exceed twenty-five thousand dollars.

e. If a cooperator of a soil conservation district qualifies for cost sharing under a state soil conservation cost share program, the cooperator is eligible for a loan request. In granting these requests the authority shall give preference to those with the lower net worths.

3. The authority may issue its bonds and notes for the purposes set forth in subsection 1 and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. Bonds and notes must be authorized by a resolution of the authority. However, the authority shall not have a total principal amount of bonds and notes outstanding under this section at any time in excess of twenty-five percent of the limitation on the amount of bonds and notes at any time specified in section 175.17, subsection 1. The authority and the bondholders or noteholders may enter into an agreement to provide for any of the following:

a. That the proceeds of the bonds and notes and investments thereon may be received, held, and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the authority.

b. That the bondholders or noteholders or a trustee or agent designated by the authority, may collect, invest, and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the owner or operator of the agricultural land.

c. That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained therein, the payment or performance may be enforced in accordance with the provisions contained therein.

d. That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

e. Other terms and conditions.

4. The authority may provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest are limited obligations payable solely out of the revenues derived from the debt obligation, collateral, or other security furnished by or on behalf of the owner or operator of the agricultural land, and that the principal and interest do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

5. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 175.12, section 175.17, subsection 9 and section 175.19, subsection 4, apply to bonds or notes issued pursuant to and powers granted to the authority under this section except to the extent that they are inconsistent with this section.

Sec. 2. Section 175.2, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Permanent soil and water conservation practices" and "temporary soil and water conservation practices" have the same meaning as defined in section 467A.42.

NEW SUBSECTION. "Conservation farm equipment" means the specialized planters used for reduced tillage or no-till planting of row crops.

Sec. 3. Section 175.3, subsection 1, Code 1981, is amended to read as follows:

1. The Iowa family farm development authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions. The authority is established to undertake programs which assist beginning farmers in purchasing agricultural land and agricultural improvements and depreciable agricultural property for the purpose of farming and programs which provide financing to farmers for permanent soil and water conservation practices on agricultural land within the state or for the acquisition of conservation farm equipment. The powers of the authority shall be vested in and exercised by a board of eleven members with nine members appointed by the governor with the approval of two-thirds of the members of the senate. The treasurer of ~~the~~ state and the ~~state~~ secretary of agriculture are ex officio nonvoting members. No more than five members shall belong to the same political party. As far as possible the governor shall include within the membership persons who represent financial institutions experienced in agricultural lending, the real estate sales industry, farmers, beginning farmers, average taxpayers, local government, and any other person specially interested in family farm development.

Sec. 4. Section 175.4, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. The erosion of topsoil on agricultural land by wind and water is a serious problem within the state and one which threatens to destroy the natural resource most responsible for Iowa's prosperity.

NEW SUBSECTION. It is necessary to the preservation of the economy and well-being of the state to encourage soil conservation practices by providing loans for permanent soil and water conservation practices on agricultural land within the state and for the acquisition of conservation farm equipment.

Sec. 5. Section 175.11, Code 1981, is amended to read as follows:

175.11 COMBINATION PROGRAMS. Programs authorized in this chapter may be combined with any other programs authorized in this chapter, under chapter 220 or under a federal program in order to facilitate as far as practicable the acquisition of agricultural land and property by beginning farmers or to facilitate the implementation of permanent soil and water conservation practices and the acquisition of conservation farm equipment.

Approved May 13, 1982

CHAPTER 1244

SUBSTANCE ABUSE SERVICES AND LICENSES

S.F. 2245

AN ACT extending the operation of the department of substance abuse, striking the exemption of a program not receiving state dollars from inspections by the department, exempting certain county-financed programs which do not receive state funds from licensing, and providing for four types of licenses.

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

Section 1. Section 125.13, subsection 1, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Four types of licenses may be issued by the department. A standard renewable license may be issued for two years. Licenses may also be issued for one hundred eighty or two hundred seventy days, or one year. A license issued for one hundred eighty or two hundred seventy days shall not be renewed or extended. A one-year license shall be issued no more than two consecutive times.

Sec. 2. Section 125.13, subsection 2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 58, sections 4 through 7, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. Intervention and referral programs which are financed and managed by a county or counties, are staffed by county employees, and do not receive state payments pursuant to a contract under section 125.44.

NEW LETTERED PARAGRAPH. Voluntary, nonprofit groups whose funding is provided solely from nontax sources.

Sec. 3. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 58, section 12, subsection 3, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 4. Section 125.56, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 58, section 11, is repealed.

Sec. 5. It is the intent of the general assembly to renew and strengthen substance abuse efforts in Iowa by improving supervision and coordination of services on a statewide level. In recognition of the efficiency and economy that can be gained by coordinating similar programs, it is further the intent of the general assembly that all possible efforts be made by the commission on substance abuse and the mental health and mental retardation commission to coordinate the administration of substance abuse and mental health services in order to make maximum use of common resources and to eliminate unnecessary duplication.

Approved May 19, 1982

CHAPTER 1245

LAND USE

S.F. 2218

AN ACT relating to the uses of land in this state by requiring inventories by county organizations, authorizing agricultural land preservation ordinances, county land use plans and agricultural areas and providing for certain preferences and restrictions on certain proceedings and assessments.

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

Section 1. Chapter 93A, Code 1981, is amended by striking the chapter and inserting in lieu thereof sections 2 through 14 of this Act.

Sec. 2. NEW SECTION. PURPOSE. It is the intent of the general assembly and the policy of this state to provide for the orderly use and development of land and related natural resources in Iowa for residential, commercial, industrial, and recreational purposes, preserve private property rights, protect natural and historic resources and fragile ecosystems of this state including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and recreational areas to promote the efficient use and conservation of energy resources, to promote the creation and maintenance of wildlife habitat, to consider the protection of soil from wind and water erosion and preserve the availability and use of agricultural land for agricultural production, through processes that emphasize the participation of citizens and local governments.

The general assembly recognizes the importance of preserving the state's finite supply of agricultural land. Conversion of farmland to urban development, and other nonfarm uses, reduces future food production capabilities and may ultimately undermine agriculture as a major economic activity in Iowa.

It is the intent of the general assembly to provide local citizens and local governments the means by which agricultural land may be protected from nonagricultural development pressures. This may be accomplished by the creation of county land preservation and use plans and policies, adoption of an agricultural land preservation ordinance, or establishment of agricultural areas in which substantial agricultural activities are encouraged, so that land inside these areas or subject to those ordinances is conserved for the production of food, fiber, and livestock, thus assuring the preservation of agriculture as a major factor in the economy of this state.

Sec. 3. NEW SECTION. DEFINITIONS. As used in this chapter unless the context otherwise requires:

1. "Agricultural area" means an area meeting the qualifications of section 7 of this Act and designated under section 8 of this Act.
2. "County board" means the county board of supervisors.
3. "County commission" means the county land preservation and use commission.
4. "Farm" means the land, buildings, and machinery used in the commercial production of farm products.
5. "Farm operation" means a condition or activity which occurs on a farm in connection with the production of farm products and includes but is not limited to the marketing of products at

roadside stands or farm markets, the creation of noise, odor, dust, fumes, the operation of machinery and irrigation pumps, ground and aerial seeding and spraying, the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides, and the employment and use of labor.

6. "Farm products" means those plants and animals and their products which are useful to people and includes but is not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey, and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur.

7. "Nuisance" means a public or private nuisance as defined either by statute, administrative rule, ordinance, or the common law.

8. "Nuisance action or proceeding" means an action, claim, or proceeding, whether brought at law, in equity, or as an administrative proceeding, which is based on nuisance.

9. "Farmland" means those parcels of land suitable for the production of farm products.

Sec. 4. NEW SECTION. COUNTY LAND PRESERVATION AND USE COMMISSIONS ESTABLISHED.

1. In each county a county land preservation and use commission is created composed of the following members:

a. One member appointed by and from the county agricultural extension council.

b. Two members appointed by the district soil conservation commissioners, one of whom must be a member of the district soil conservation board of commissioners and one must be a person who is not a commissioner, but is actively operating a farm in the county.

c. One member appointed by the board of supervisors from the residents of the county who may be a member of the board.

d. One member appointed by and from a convention of the mayors and councilpersons of the cities of the county. If a participating city contains fifty percent or more of the total population of the participating cities, that city may appoint the member appointed under this paragraph.

However, if a city contains more than fifty percent of the population of a county which has a population exceeding fifty thousand persons, that city shall not participate in the convention of mayors and councilpersons and the members appointed under paragraph d shall be one member appointed by and from the mayor and councilpersons of that city and one member appointed by and from the convention of mayors and councilpersons and the member appointed under paragraph c shall be a resident of the county engaged in actual farming operations appointed by the board of supervisors.

2. The county commission shall meet and organize by the election of a chairperson and vice chairperson from among its members by October 1, 1982. A majority of the members of the county commission constitutes a quorum. Concurrence of a quorum is required to determine any matter relating to its official duties.

3. The state agricultural extension service shall provide county commissions with technical, informational, and clerical assistance.

4. A vacancy in the county commission shall be filled in the same manner as the appointment of the member whose position is vacant. The term of a county commissioner is four years. However, in the initial appointments to the county commission, the members appointed under paragraphs a and b of subsection 1 shall be appointed to terms of two years. Members may be appointed to succeed themselves.

Sec. 5. NEW SECTION. COUNTY INVENTORIES.

1. Each county commission shall compile a county land use inventory of the unincorporated areas of the county by January 1, 1984. The county inventories shall where adequate data is available contain at least the following:

a. The land available and used for agricultural purposes by soil suitability classifications or land capability classification, whichever is available.

b. The lands used for public facilities, which may include parks, recreation areas, schools, government buildings and historical sites.

c. The lands used for private open spaces, which may include woodlands, wetlands and water bodies.

d. The land used for each of the following uses: commercial, industrial including mineral extraction, residential and transportation.

e. The lands which have been converted from agricultural use to residential use, commercial or industrial use, or public facilities since 1960.

2. In addition to that provided under subsection 1, the county inventory shall also contain the land inside the boundaries of a city which is taxed as agricultural land.

3. The information required by subsection 1 shall be provided both in narrative and map form. The county commission shall provide a cartographic display which contrasts the county's present land use with the land use in the county in 1960 based on the best available information. The display need only show the areas in agriculture, private open spaces, public facilities, commercial, industrial, residential and transportation uses.

4. The state department of agriculture, office for planning and programming, department of soil conservation, state conservation commission, Iowa natural resources council, department of environmental quality, geological survey, state agricultural extension service, and the Iowa development commission shall, upon request, provide to each county commission any pertinent land use information available to assist in the compiling of the county land use inventories.

Sec. 6. NEW SECTION. COUNTY LAND PRESERVATION AND USE PLAN.

1. By September 1, 1984, after at least one public hearing, a county commission shall propose to the county board a county land use plan for the unincorporated areas in the county, or it shall transmit to the county board the county land use inventory completed pursuant to section 5 of this Act together with a set of written findings on the following factors considered by the county commission:

a. Methods of preserving agricultural lands for agricultural production.

b. Methods of preserving and providing for recreational areas, forests, wetlands, streams, lakes and aquifers.

c. Methods of providing for housing, commercial, industrial, transportational and recreational needs.

d. Methods to promote the efficient use and conservation of energy resources.

e. Methods to promote the creation and maintenance of wildlife habitat.

f. Methods of implementing the plan, if adopted, including a formal countywide system to allow variances from the county plan that incorporates the examination of alternative land uses and a public hearing on such alternatives.

g. Methods of encouraging the voluntary formation of agricultural areas by the owners of farmland.

h. Methods of considering the platting of subdivisions and its effect upon the availability of farmland.

2. Upon receipt of the inventory and findings, the county board may direct the county commission to prepare a county land use plan for the consideration of the county board.

3. Upon receipt of a plan, the county board may rerefer the plan to the county commission for modification, reject the plan or adopt the plan either as originally submitted or as modified.

If the plan is approved by the county board, it shall be the land use policy of the county and shall be administered and enforced by the county in the unincorporated areas. The county commission shall review the county plan periodically for the purpose of considering amendments to it. If the commission proposes amendments to the plan, it shall forward the proposal to the county board which may rerefer the amendments to the commission for modification or reject or adopt the amendments.

4. Within thirty days after the completion of the county land use inventory compiled pursuant to section 5 of this Act or any county land use plan or set of written findings completed pursuant to section 6 of this Act, the county commission shall transmit one copy of each to the interagency resource council.

Sec. 7. NEW SECTION. CREATION OF AGRICULTURAL AREAS. An owner of farmland may submit a proposal to the county board for the creation of an agricultural area within the county. An agricultural area, at its creation, shall include at least five hundred acres of farmland, however, a smaller area may be created if the farmland is adjacent to farmland subject to an agricultural land preservation ordinance pursuant to section 15 of this Act. The proposal shall include a description of the proposed area, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible. Land shall not be included in an agricultural area without the consent of the owner. Agricultural areas shall not exist within the corporate limits of the city. Agricultural areas may be created in a county which has adopted zoning ordinances. Except as provided in this section, the use of the land in agricultural areas is limited to farm operations.

1. The following shall be permitted in an agricultural area:

a. Residences constructed for occupation by a person engaged in farming or in a family farm operation. Nonconforming preexisting residences may be continued in residential use.

b. Property of a telephone company, city utility as defined in section 390.1, public utility as defined in section 476.1, or pipeline company as defined in section 479.2.

2. The county board of supervisors may permit any use not listed in subsection 1 in an agricultural area only if it finds all of the following:

a. The use is not inconsistent with the purposes set forth in section 2 of this Act.

b. The use does not interfere seriously with farm operations within the area.

c. The use does not materially alter the stability of the overall land use pattern in the area.

Sec. 8. NEW SECTION. DUTIES OF COUNTY BOARD.

1. Within thirty days of receipt of a proposal for an agricultural area which meets the statutory requirements, the county board shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five days after receipt, the county board shall hold a public hearing on the proposal.

2. Within sixty days after receipt, the county board shall adopt the proposal or any modification of the proposal it deems appropriate, unless to do so would be inconsistent with the purposes of this chapter.

Sec. 9. NEW SECTION. REQUIREMENT THAT DESCRIPTION OF AGRICULTURAL AREAS BE FILED WITH COUNTY AUDITOR AND COUNTY RECORDER. Upon the creation of an agricultural area, its description shall be filed by the county board with the county auditor and placed on record in the office of the county recorder.

Sec. 10. NEW SECTION. WITHDRAWAL. At any time after three years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the county board a request for withdrawal containing a legal description of the land to be withdrawn and a statement of the reasons for the withdrawal. The county board shall, within sixty days of receipt of the request, approve or deny the request for withdrawal. At any time after six years from the date of creation of an agricultural area, an owner may withdraw from an agricultural area by filing with the county board a notice of withdrawal containing a legal description of the land to be withdrawn.

The board shall cause the description of that agricultural area filed with the county auditor and recorded with the county recorder to be modified to reflect any withdrawal. Withdrawal shall be effective on the date of recording. The agricultural area from which the land is withdrawn shall continue in existence even if smaller than five hundred acres after withdrawal.

Sec. 11. NEW SECTION. LIMITATION ON POWER OF CERTAIN PUBLIC AGENCIES TO IMPOSE PUBLIC BENEFIT ASSESSMENTS OR SPECIAL ASSESSMENTS. A political subdivision or a benefited district providing public services such as sewer, water, or lights or for nonfarm drainage shall not impose benefit assessments or special assessments on land used primarily for agricultural production within an agricultural area on the basis of frontage, acreage, or value, unless the benefit assessments or special assessments were imposed prior to the formation of the agricultural area, or unless the service is provided to the landowner on the same basis as others having the service.

Sec. 12. NEW SECTION. INCENTIVES FOR AGRICULTURAL LAND PRESERVATION.

1. NUISANCE RESTRICTION. A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. The subsection does not apply if the nuisance results from the negligent operation of the farm or farm operation. This subsection does not apply to actions or proceedings arising from injury or damage to person or property caused by the farm or farm operation before the creation of the agricultural area. This subsection does not affect or defeat the right of a person to recover damages for injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land.

2. WATER PRIORITY. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the Iowa natural resources council shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes.

Sec. 13. NEW SECTION. STATE REGULATION. In order to accomplish the purposes set forth in section 2 of this Act, a rule adopted by a state agency after the effective date of this Act which would restrict or regulate farms or farm operations may contain standards which are less restrictive for farms or farm operations inside an agricultural area than for farms or farm operations outside such an area. A rule containing such a discrimination shall not for the fact of such discrimination alone be found or held to be unreasonable, arbitrary, capricious, beyond the authority delegated to the agency, or characterized by an abuse of discretion or clearly unwarranted exercise of discretion.

Sec. 14. NEW SECTION. STATE INTERAGENCY RESOURCE COUNCIL. The state interagency resource council shall:

1. Serve as a center to gather information from various resources and agencies and disseminating this information to the county commissions.

2. Receive the county inventories and compile a statewide summary of the information contained in the inventories and submit the summary to the general assembly.

3. Distribute information beneficial to the county commissions for preparing the county plan.

4. Disseminate beneficial information or procedures developed by one or more counties to other counties.

5. Receive and maintain a record of individual county plans.

Sec. 15. Chapter 358A, Code 1981, is amended by adding the following new section:

NEW SECTION. AGRICULTURAL LAND PRESERVATION ORDINANCE. If a county adopts an agricultural land preservation ordinance under this chapter which subjects farmland to the same use restrictions provided in section 7 of this Act for agricultural areas, sections 11 through 13 and section 19 of this Act shall apply to farms and farm operations which are subject to the agricultural land preservation ordinance.

Sec. 16. Section 358A.2, Code 1981 Supplement, is amended to read as follows:

358A.2 FARMS EXEMPT. ~~No~~ Except to the extent required to implement section 15 of this Act, no ordinance adopted under this chapter applies to land, farm houses, farm barns, farm outbuildings or other buildings or structures which are primarily adapted, by reason of nature and area, for use for agricultural purposes, while so used. However, the ordinances may apply to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream.

Sec. 17. Section 358A.5, unnumbered paragraph 1, Code 1981 Supplement, is amended to read as follows:

~~Such~~ The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street or highway; to secure safety from fire, flood, panic, and other dangers; to protect health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy shall not be construed as voiding any zoning regulation existing on July 1, 1981, or to require zoning in a county that did not have zoning prior to July 1, 1981.

Sec. 18. Section 414.3, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 125, section 2, is amended to read as follows:

~~Such~~ The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy ~~shall~~ do not ~~be construed as voiding~~ void any zoning regulation existing on ~~the effective date of this Act~~ July 1, 1981, or ~~to~~ require zoning in a city that did not have zoning prior to ~~the effective date of this Act~~ July 1, 1981.

Sec. 19. Section 472.3, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. If the damages are to be paid by the state and the land to be condemned is within an agricultural area as provided in chapter 93A, a statement disclosing whether any of that land is classified as class I or class II land under the United States department of agriculture soil conservation service land capability classification system contained in the agriculture handbook number 210, 1961 edition and, if so classified, stating that the class I or class II land is reasonably necessary for the work of internal improvement for which condemnation is sought.

Sec. 20. This Act does not invalidate any part of a zoning ordinance which is in effect on the effective date of this Act, or require the adoption of a zoning ordinance by any subdivision of the state.

Approved May 14, 1982

CHAPTER 1246

HOMESTEAD CREDIT AND MILITARY SERVICE TAX EXEMPTION CLAIM

H.F. 844

AN ACT relating to the filing of a claim for the homestead credit or military service tax exemption only once and providing that the credit or exemption will be granted without refiling a claim for as long as the person or the person's spouse owns the property designated for the credit or exemption on July 1, providing for a civil penalty, and providing for a January 1 effective date.

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

Section 1. Section 425.2, unnumbered paragraph 1, Code 1981, is amended by striking the paragraph and inserting in lieu thereof the following:

A person who wishes to qualify for the credit allowed under this chapter, shall obtain the appropriate forms for filing for the credit from the assessor. The person claiming the credit shall file a verified statement and designation of homestead with the assessor for the year for which the person is first claiming the credit. The claim shall be filed not later than July 1 of the year for which the person is claiming the credit.

Upon the filing and allowance of the claim, the claim shall be allowed on that homestead for successive years without further filing as long as the property is legally or equitably owned and used as a homestead by that person or that person's spouse on July 1 of each of those successive years. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall refile for the credit. An owner who ceases to use a property for a homestead shall provide written notice to the assessor by July 1 following the date on which the use is changed. A person who sells or transfers a homestead or the personal representative of a deceased person who had a homestead at the time of death, shall provide written notice to the assessor that the property is no longer the homestead of the former claimant.

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, the statement and designation may be signed and delivered by any member of the owner's family, by the owner's guardian or conservator, or by any other person who may represent the owner under power of attorney. If the owner of the homestead is married, the spouse may sign and deliver the statement and designation. The commissioner of social services or 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 425.3, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

425.3 VERIFICATION OF CLAIMS FOR HOMESTEAD CREDIT. The assessor shall retain a permanent file of current homestead claims filed in the assessor's office. The assessor shall file a notice of transfer of property for which a claim is filed when notice is received from the office of the county recorder.

The county recorder shall give notice to the assessor of each transfer of title filed in the recorder's office. The notice shall describe the property transferred, the name of the person transferring the title to the property, and the name of the person to whom title to the property has been transferred.

Not later than July 6 of each year, the assessor shall remit the statements and designation of homesteads to the county auditor with the assessor's recommendation for allowance or disallowance. If the assessor recommends disallowance of a claim, the assessor shall submit the reasons for the recommendation, in writing, to the county auditor.

The county auditor shall forward the claims to the board of supervisors. The board shall allow or disallow the claims. If the board disallows a claim, it shall send written notice, by certified mail, to the claimant at the claimant's last known address. The notice shall state the reasons for disallowing the claim for the credit.

Sec. 3. Section 425.6, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

425.6 WAIVER BY NEGLECT. If a person fails to file a claim or to have a claim on file with the assessor for the credits provided in this chapter, the person is deemed to have waived the homestead credit for the year in which the person failed to file the claim or to have a claim on file with the assessor.

Sec. 4. Section 425.7, subsection 3, Code 1981, is amended to read as follows:

3. ~~Should~~ If the director of revenue ~~determine, upon investigation,~~ determines that any claim for homestead credit has been allowed by any board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within twenty-four months from July 1 of the year in which the claim is ~~filed~~ allowed, set aside ~~such~~ the allowance. Notice of ~~such~~ the disallowance shall be given to the county auditor of the county in which ~~such~~ the claim has been improperly granted and a written notice of ~~such~~ the disallowance shall also be addressed to the claimant at ~~his~~ the claimant's last known address. ~~Such~~ The claimant~~,~~ or the board of supervisors~~,~~ may seek judicial review of the action of the director of revenue in accordance with ~~the terms of~~ the Iowa administrative procedure Act. In any case where a claim is so disallowed by the director of revenue and ~~no~~ a petition for judicial review is not filed with respect to ~~such~~ the disallowance, any amounts of credits allowed and paid from the homestead credit fund ~~shall~~ including the penalty, if any, become a lien upon the property on which ~~said~~ credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid including the penalty, if any, shall be collected by the county treasurer in the same manner as other taxes and ~~such~~ the collections shall be returned to the department of revenue and credited to the homestead credit fund. The director of revenue ~~shall also have the authority to~~ may institute legal proceedings against a homestead credit claimant for the collection of all payments made on ~~such~~ disallowed credits and the penalty, if any. If a homestead credit is disallowed and the claimant failed to give written notice to the assessor as required by section 425.2 when the property ceased to be used as a homestead by the claimant, a civil penalty equal to fifty percent of the amount of the disallowed credit is assessed against the claimant.

Sec. 5. Section 425.8, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The director of revenue shall prescribe the form for the making of verified statement and designation of homestead, ~~and~~ the form for the supporting affidavits required herein, and such other forms as may be necessary for the proper administration of this chapter. ~~As soon as practicable after the effective date of this chapter, and from time to time thereafter as~~ Whenever necessary, the department of revenue shall forward to the county auditors of the several counties in the state ~~such~~ the prescribed sample forms, and the county auditors shall furnish blank forms prepared in accordance therewith with the assessment rolls, books, and supplies delivered to the assessors. The department of revenue shall prescribe and the county auditors shall provide on the forms for claiming the homestead credit a statement to the effect that the owner realizes that he or she must give written notice to the assessor when the owner changes the use of the property.

Sec. 6. Section 425.11, subsection 1, paragraph a, unnumbered subparagraph 1, Code 1981, is amended by striking the subparagraph and inserting in lieu thereof the following:

The homestead must embrace the dwelling house which the owner, in good faith, is occupying as a home on July 1 of the year for which the credit is claimed, except as herein provided.

Sec. 7. Section 426A.6, Code 1981, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE. ~~Should~~ If the director of revenue ~~determine, upon investigation,~~ determines that any claim for military service tax exemption has been allowed by any board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within twenty-four months from July 1 of the year in which the claim is ~~filed~~ allowed, set aside ~~such~~ the allowance. Notice of ~~such~~ the disallowance shall be given to the county auditor of the county in which ~~such~~ the claim has been improperly granted and a written notice of ~~such~~ the disallowance shall also be addressed to the claimant at ~~his~~ the claimant's last known address. ~~Such~~ The claimant, or the board of supervisors, may seek judicial review of the action of the director of revenue in accordance with ~~the terms of~~ the Iowa administrative procedure Act. In any case, where a claim is so disallowed by the director of revenue and ~~no~~ a petition for judicial review is not filed with respect to ~~such~~ the disallowance, any amounts of credits allowed and paid from the military service tax credit fund ~~shall~~ become a lien upon the property on which ~~said~~ the credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid shall be collected by the county treasurer in the same manner as other taxes and ~~such~~ the collections shall be returned to the department of revenue and credited to the military service tax credit fund. The director of revenue ~~shall also have the authority to~~ may institute legal proceedings against a military service tax exemption claimant for the collection of all payments made on ~~such~~ disallowed exemptions.

Sec. 8. Section 427.5, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

427.5 CLAIM FOR MILITARY TAX EXEMPTION—DISCHARGE RECORDED. A person named in section 427.3, who is a resident of and domiciled in the state of Iowa, shall receive a reduction equal to the exemption, to be made from any property owned by the person and so designated by proceeding as hereafter provided. In order to be eligible to receive the exemption the person claiming it shall have had recorded in the office of the county recorder of the county in which is located the property designated for the exemption, 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 the exemption. If the evidence of satisfactory service, separation, retirement, furlough to reserve, inactive status, or honorable discharge is lost the claimant may record in lieu thereof a certified copy.

The person shall file with the appropriate assessor on forms obtained from the assessor the claim for exemption for the year for which the person is first claiming the exemption. The claim shall be filed not later than July 1 of the year for which the person is claiming the exemption. The claim shall set out the fact that the person is a resident of and domiciled in the state of Iowa, and a person within the terms of section 427.3, and shall 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 the exemption is to be made, and shall further state that the claimant is the equitable and legal owner of the property designated.

Upon the filing and allowance of the claim, the claim shall be allowed to that person for successive years without further filing. Provided, that notwithstanding the filing or having on file a claim for exemption, the person or person's spouse is the legal or equitable owner of the property on July 1 of the year for which the claim is allowed. When the property is sold or transferred or the person wishes to designate different property for the exemption, a person who wishes to receive the exemption shall refile for the exemption. A person who sells or transfers property which is designated for the exemption or the personal representative of a deceased person who owned such property shall provide written notice to the assessor that the property is no longer legally or equitably owned by the former claimant.

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, or is sixty-five years of age or older, or is disabled, the claim may be filed by any member of the owner's family, by the owner's guardian or conservator, or by any other person who may represent the owner under power of attorney. In all cases where the owner of the property is married, the spouse may file the claim for exemption. A person may not claim an exemption in more than one county of the state, and if a designation is not made the exemption shall apply to the homestead, if any.

Sec. 9. Section 427.6, unnumbered paragraph 1, Code 1981, is amended by striking the paragraph and inserting in lieu thereof the following:

The assessor shall retain a permanent file of current military service tax exemption claims filed in the assessor's office. The assessor shall file a notice of transfer of property for which a claim is filed when notice is received from the office of the county recorder, from the person who sold or transferred the property, or from the personal representative of a deceased claimant.

The county recorder shall give notice to the assessor of each transfer of title filed in the recorder's office. The notice shall describe the property transferred, the name of the person transferring the title to the property, and the name of the person to whom title to the property has been transferred.

Not later than July 6 of each year, the assessor shall remit the claims and designations of property to the county auditor with the assessor's recommendation for allowance or disallowance. If the assessor recommends disallowance of a claim, the assessor shall submit the reasons for the recommendation, in writing, to the county auditor.

The county auditor shall forward the claims to the board of supervisors. The board shall allow or disallow the claims. If the board disallows a claim, it shall send written notice, by certified mail, to the claimant at the claimant's last known address. The notice shall state the reasons for disallowing the claim for the exemption.

Sec. 10. A claim for the homestead tax credit or the military service tax exemption for the fiscal year beginning on July 1 following the effective date of this Act shall not be allowed unless the claim for the homestead tax credit or the military service tax exemption is filed between January 1 and July 1 of the calendar year following enactment of this Act. Upon receipt of an application for a claim for homestead tax credit or military service tax exemption for the fiscal year beginning on July 1 following the effective date of this Act, the assessor shall provide written material as prescribed by the department of revenue on the requirements of the claimant under this Act and other information deemed by the department to be needed by the claimant in carrying out the claimant's responsibilities under this Act. The material shall provide notice that the claimant or personal representative of the claimant will be subject to a civil penalty for failure to provide the assessor with written notice of the occurrence of certain events. These events shall be specified in the material presented to the claimant.

Sec. 11. This Act takes effect January 1 following its enactment.

Approved May 22, 1982

CHAPTER 1247

STATE PROPERTY TAX NATURAL RESOURCE EXEMPTIONS AND ASSESSMENTS

H.F. 2351

AN ACT relating to property tax by providing for exemptions for wetlands, recreational lakes, forest cover, forest reservations, rivers and streams, river and stream banks, wildlife habitats, native prairies, and open prairies, increasing the amount of acres to be exempted for certain organizations, and increasing the assessed value of fruit-tree and forest reservations.

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

Section 1. Section 427.1, subsection 9, Code 1981, is amended to read as follows:

9. Property of religious, literary, and charitable societies. All grounds and buildings used or under construction by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies solely for their appropriate objects, not exceeding three hundred twenty acres in extent and not leased or otherwise used or under construction with a view to pecuniary profit. However, an organization mentioned in this subsection whose primary objective is to preserve land in its natural state may own or lease land not exceeding three hundred twenty acres in each county for its appropriate objects. All deeds or leases by which such property is held shall be filed for record before the property herein described shall be omitted from the assessment. All such property shall be listed upon the tax rolls of the district or districts in which it is located and shall have ascribed to it an actual fair market value and an assessed or taxable value, as contemplated by section 441.21, whether such property be subject to a levy or be exempted as herein provided and such information shall be open to public inspection.

Sec. 2. Section 427.1, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. Wetlands, recreational lakes, forest covers, forest reservations, rivers and streams, river and stream banks, and open prairies as designated by the board of supervisors of the county in which located. The board of supervisors shall annually designate the real property, not to exceed in the aggregate for the fiscal year beginning July 1, 1983 the greater of one percent of the acres assessed as agricultural land or three thousand acres in each county, for which this exemption shall apply. For subsequent fiscal years, the limitation on the maximum acreage of real property that may be granted exemptions shall be the limitation for the previous fiscal year, unless the amount of acreage granted exemptions for the previous fiscal year equaled the limitation for that year, then the limitation for the subsequent fiscal year is the limitation for the previous fiscal year plus an increase, not to exceed three hundred acres, of ten percent of that limitation. However, the board of supervisors shall grant a tax exemption to a tract of land if it fulfills the conditions of sections 161.1 to 161.13 for a forest reservation. The acreage granted this exemption for a forest reservation shall not be

included within the limitation for the fiscal year for which the exemption is granted. The procedures of this subsection shall be followed for each assessment year to procure an exemption for the fiscal year beginning in the assessment year. The exemption shall be only for the fiscal year for which it is granted, except that an exemption granted for wetlands shall be for three fiscal years. A parcel of property may be granted subsequent exemptions. The exemption shall only be granted for parcels of property of two acres or more.

Application for this exemption shall be filed with the commissioners of the soil conservation district in which the property is located, or if not located in a district, to the board of supervisors, not later than April 15 of the assessment year, on forms provided by the department of revenue. However, in the case of an exemption granted for wetlands an application does not have to be filed for the second and third years of the three-year exemption period. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon receipt of the application, the commissioners or the board of supervisors, if the property is not located in a soil conservation district, shall certify whether the property is eligible to receive the exemption. The commissioners or board shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property if other than a forest reservation will not be used for economic gain during the assessment year in which the exemption is granted.

Before the board of supervisors may designate real property for the exemption, it shall establish priorities for the types of real property for which an exemption may be granted and the amount of acreage. These priorities may be the same as or different than those for previous years. The board of supervisors shall get the approval of the governing body of the city before an exemption may be granted to real property located within the corporate limits of that city. A public hearing shall be held with notice given as provided in section 23.2 at which the proposed priority list shall be presented. After the public hearing, the board of supervisors shall adopt by resolution the proposed priority list or another priority list. Property upon which are located abandoned buildings or structures shall have the lowest priority on the list adopted, except where the board of supervisors determines that a structure has historic significance. The board of supervisors shall also provide for a procedure where the amount of acres for which exemptions are sought exceeds the amount the priority list provides for that type or in the aggregate for all types.

After receipt of an application with its accompanying certification and affidavit and the establishment of the priority list, the board of supervisors may grant a tax exemption under this subsection using the established priority list as a mandate. Real property designated for the tax exemption shall be designated by May 15 of the assessment year in which begins the fiscal year for which the exemption is granted. Notification shall be sent to the county auditor and the applicant.

The board of supervisors, except as required for forest reservations, does not have to grant tax exemptions under this subsection, grant tax exemptions in the aggregate of the maximum acreage which may be granted exemptions, or grant a tax exemption for the total acreage for which the applicant requested the exemption. Only real property in parcels of two acres or more which is wetlands, recreational lakes, forest cover, forest reservations, river and stream, river and stream banks or open prairie and which is utilized for the purposes of providing soil

erosion control or wildlife habitat or both, and which is subject to property tax for the fiscal year for which the tax exemption is requested is eligible for the exemption under this subsection. However, in addition to the above, in order for a gully area which is susceptible to severe erosion to be eligible, there must be an erosion control plan for it approved by the commissioners of the soil conservation district in which it is located or the state soil conservation committee if not located in a district. In the case of an exemption for river and stream or river and stream banks, the exemption shall not be granted unless there is included in the exemption land located at least thirty-three feet from the ordinary high water mark of the river and stream or river and stream banks. Property shall not be denied an exemption because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the real property is located within a city, the approval of the governing body must be obtained before the real property may be eligible for an exemption. For purposes of this subsection:

a. "Wetlands" means land preserved in its natural condition which is mostly under water, which produces little economic gain, which has no practical use except for wildlife or water conservation purposes, and the drainage of which would be lawful, feasible and practical and would provide land suitable for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains. "Wetlands" includes adjacent land which is not suitable for agricultural purposes due to the presence of the land which is under water.

b. "Open prairies" includes hillsides and gully areas which have a permanent grass cover but does not include native prairies meeting the criteria of the state conservation commission.

c. "Forest cover" means land which is predominantly wooded.

d. "Recreational lake" means a body of water, which is not a river or stream, owned solely by a nonprofit organization and primarily used for boating, fishing, swimming and other recreational purposes.

e. "Forest reservation" means land fulfilling the conditions of sections 161.1 to 161.13 except land located within the corporate limits of a city which is not open to public use.

f. "Used for economic gain" includes, but is not limited to, using property for the storage of equipment, machinery, or crops.

NEW SUBSECTION. NATIVE PRAIRIE. Land designated as native prairie by a county conservation board or by the state conservation commission in an area not served by a county conservation board. Application for the exemption shall be made on forms provided by the department of revenue. The application forms shall be filed with the assessing authority not later than the first of February of the year for which the exemption is requested. The application must be accompanied by an affidavit signed by the applicant that if the exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted. If the property is used for economic gain during the assessment year in which the exemption is granted, the property shall lose its tax exemption and shall be taxed at the rate levied by the county for the fiscal year beginning in that assessment year. The first annual application shall be accompanied by a certificate from the county conservation board serving the area in which the property is located or if none exists, the state conservation commission stating that the land is native prairie. The county conservation board or the state conservation commission shall issue the certificate if the board or commission finds that the land has never been cultivated, is unimproved, is primarily a mixture of warm season grasses interspersed with flowering plants, and meets the other criteria established by the state conservation commission for native prairie. A taxpayer may seek judicial review of a decision of a board or the commission according to chapter 17A. The state conservation commission shall adopt rules to implement this subsection.

NEW SUBSECTION. LAND CERTIFIED AS A WILDLIFE HABITAT. The owner of agricultural land may designate not more than two acres of the land for use as a wildlife

habitat. After inspection, if the land meets the standards established by the commission for a wildlife habitat under section 110.3, the state conservation commission shall certify the designated land as a wildlife habitat and shall send a copy of the certification to the appropriate assessor. The commission may subsequently withdraw certification of the designated land if it fails to meet the established standards for a wildlife habitat and the assessor shall be given written notice of the decertification.

Sec. 3. Section 441.22, Code 1981, is amended to read as follows:

441.22 FOREST AND FRUIT-TREE RESERVATIONS. Forest reservations fulfilling the conditions of sections 161.1 to 161.13 which are located within the corporate limits of a city and which are not open to public use shall be assessed ~~on a taxable valuation of fourteen dollars and eighty-two cents per acre.~~ at market value. Fruit-tree reservations fulfilling the conditions of sections 161.1 to 161.13 shall be assessed on a taxable valuation of ~~fourteen~~ twenty dollars ~~and eighty-two cents~~ per acre for a period of eight years from the time of planting except that a fruit-tree reservation located within the corporate limits of a city which is not open to public use shall be assessed at market value. In all other cases where trees are planted upon any tract of land, without regard to area, for forest, fruit, shade, or ornamental purposes, or for windbreaks, the assessor shall not increase the valuation of such property because of such improvements.

Approved May 11, 1982

CHAPTER 1248

RESTRICTED MOTOR VEHICLE LICENSE FOR MINORS

H.F. 796

AN ACT providing for the issuance of certain restricted licenses to persons between the ages of fourteen and eighteen.

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

Section 1. Section 321.178, subsection 2, Code 1981, is amended to read as follows:

2. ~~YOUTHS NOT ATTENDING SCHOOL - NO DRIVER EDUCATION REQUIRED~~ RESTRICTED LICENSE.

a. Any person between sixteen and eighteen years of age who is not in ~~attendence~~ attendance at school or who is in attendance in a public or private school where an approved driver's education course is not offered or available, may be issued a ~~one-year probationary operator's~~ restricted license only for travel to and from work without having completed an approved driver's education course. The restricted license shall be issued by the department only upon confirmation of the person's employment and need for a restricted license to travel to and from work and upon receipt of a written statement from the public or private school that an approved course in driver's education was not offered or available to the person, if applicable. The employer shall notify the department if the employment of the person is terminated before the person attains the age of eighteen. ~~Such~~ The person shall not have a

~~probationary operator's~~ restricted license revoked or suspended upon re-entering school prior to age eighteen provided the student enrolls in and completes the classroom portion of an approved driver's education course as soon as a course is available.

b. The department ~~shall cancel~~ may suspend a ~~probationary operator's~~ restricted license ~~upon proof of a conviction for a moving traffic violation~~ issued under this section upon receiving a record of the person's conviction for one violation and shall revoke the license upon receiving a record of conviction for two or more violations of any law of this state or city ordinance, other than parking regulations, regulating the operation of motor vehicles on highways and after revoking a license under this section the department shall not grant application for any new license or permit until the expiration of one year or until the person attains his or her eighteenth birthday whichever is the longer period.

Sec. 2. Section 321.184, Code 1981, is amended to read as follows:

321.184 APPLICATIONS OF UNMARRIED MINORS. The application of any unmarried person under the age of eighteen years for an instruction permit, operator's license, motorized bicycle license, restricted license, or permit issued under section 321.194 shall contain the verified consent and confirmation of applicant's birthday by either parent of the applicant; ~~if neither parent is living~~, the guardian or ~~other~~ a person having custody ~~or the employer of such~~ of the minor under chapter 600A may consent. Officers and employees of the department are ~~hereby~~ authorized to administer ~~such~~ the oaths without charge.

Sec. 3. Section 321.194, Code 1981, is amended to read as follows:

321.194 MINORS' SCHOOL LICENSES. Upon certification of a special need by the school board or the superintendent of the applicant's school, the department may issue a restricted license to any person between the ages of fourteen and eighteen years which license shall entitle the holder, while having the license in his or her immediate possession, to operate a motor vehicle during the hours of 6 a.m. to 9 p.m. over the most direct and accessible route between the licensee's residence and school of enrollment for the purpose of attending duly scheduled courses of instruction and extracurricular activities at such school or at any time when accompanied by a parent or guardian, driver education instructor, or prospective driver education instructor who is a holder of a valid operator's or chauffeur's license, and who is actually occupying a seat beside the driver. The license shall expire on the licensee's eighteenth birthday or upon issuance of a probationary operator's or operator's license. Each application shall be accompanied by a statement from the school board or superintendent of the applicant's school. The statement shall be upon a form provided by the department. The school board or superintendent shall certify that a need exists for the license and that they are not responsible for any actions of the applicant as it pertains to the use of the restricted license. The department of public instruction shall adopt rules pursuant to chapter 17A establishing criteria for issuing a statement of necessity. Upon receipt of a statement of necessity, the department shall issue a restricted license. The fact that the applicant resides at a distance less than one mile from his or her school is prima-facie evidence of the nonexistence of necessity for the issuance of such a license. A license issued under this section is subject to suspension or revocation in like manner as any other license or permit issued under any law of this state and the department may also suspend such license upon receiving satisfactory evidence that the licensee has violated the restrictions of the license or has been involved in one or more accidents chargeable to the licensee. The department may suspend any license issued under this section upon receiving a record of the licensee's conviction for one violation and shall revoke the license upon receiving a record of conviction for two or more violations of any law of this state or city ordinance, other than parking regulations, regulating the operation of motor vehicles on highways and after revoking a license under this section the department

shall not grant application for any new license or permit until the expiration of one year or until the licensee attains his or her sixteenth birthday whichever is the longer period.

Approved May 12, 1982

CHAPTER 1249

PREARRANGED FUNERAL PLANS

H.F. 2218

AN ACT relating to prearranged agreements for the final disposition of dead human bodies, and providing a penalty.

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

Section 1. Section 523A.2, Code 1981, is amended to read as follows:

523A.2 DEPOSIT OF FUNDS—RECORDS—EXAMINATIONS.

1. a. All ~~such trust~~ funds held in trust under section 523A.1 shall be deposited in ~~a~~ an insured bank ~~or trust company~~, savings and loan association, or credit union authorized to ~~transact~~ conduct business in this state within thirty days after the receipt ~~thereof~~ of the funds and shall be held in a separate account or in one common trust fund under a trust agreement in the name of the depositor in trust for the designated beneficiary until ~~said trust fund is~~ released under either of the conditions provided in section 523A.1.

b. The seller under an agreement referred to in section 523A.1 shall maintain accurate records of all receipts, expenditures, interest or earnings, and disbursements relating to funds held in trust, and shall make these records available to the county attorney of the county in which the principal place of business of the seller is located for examination at any reasonable time upon request.

c. The seller under an agreement referred to in section 523A.1 shall file not later than March 1 of each year with the county recorder of the county in which the seller maintains its principal place of business a copy of each trust agreement created as required by paragraph a of this subsection for sales made during the previous calendar year.

d. The seller under an agreement referred to in section 523A.1 shall give notice to the county recorder for the county in which the trust agreement is filed of each receipt of funds held in trust under section 523A.1. This notice shall be given on forms furnished by the seller, and shall be given not later than March 1 of each year. Each notice shall contain the required information for all receipts of the seller during the previous calendar year.

e. A financial institution referred to in paragraph a of this subsection shall give notice to the county recorder for the county in which the trust agreement is filed of all funds deposited under the trust agreement. This notice shall be on forms furnished by the seller and shall be given not later than March 1 of each year. Each notice shall contain the required information for all deposits made during the previous calendar year. The seller shall furnish the financial institution with the appropriate forms.

f. Notwithstanding chapter 68A, all records maintained by a county recorder under this subsection shall be confidential and shall not be made available for inspection or copying by any person except the county attorney or a representative of the county attorney.

2. In addition to complying with subsection 1, each seller under an agreement referred to in section 523A.1 shall file annually with the county attorney of the county in which the seller maintains its principal place of business a written statement that is signed by the seller and notarized and that contains all of the following information:

a. Identification of each financial institution in which trust funds are held under subsection 1, paragraph a, and a listing of each trust agreement governing funds held in the respective financial institutions and the date each agreement was filed with the county recorder.

b. Authorization for the county attorney or a designee to investigate, audit, and verify all funds, accounts, safe-deposit boxes and other evidence of trust funds held by or in a financial institution under paragraph a of this subsection.

3. The insurance department shall adopt rules under chapter 17A specifying the form, content and cost of the forms for the notices and disclosures required by this section, and shall sell blank forms at that cost to any person on request.

4. If a seller under an agreement referred to in section 523A.1 ceases to do business, whether voluntarily or involuntarily, all funds held in trust under section 523A.1, including accrued interest or earnings, shall be repaid to the purchaser under the agreement.

5. The county attorney of the county in which a sale referred to in section 523A.1 takes place may require the performance of an audit of the seller's business by a certified public accountant if the county attorney receives reasonable evidence that the seller is not complying with this chapter. The audit shall be paid for by the seller, and a copy of the report of audit shall be delivered to the county attorney and to the seller.

6. A seller or financial institution that knowingly fails to comply with any requirement of this section or that knowingly submits false information in a document or notice required by this section commits a serious misdemeanor.

Sec. 2. Section 523A.4, Code 1981, is repealed and the following inserted in lieu thereof:

523A.4 SCOPE OF CHAPTER.

1. This chapter applies only to the sale of funeral services, funeral merchandise, or a combination of these, pursuant to a prearranged funeral plan.

2. As used in this chapter:

a. "Funeral services" means one or more services to be provided at the time of the final disposition of a dead human body, including but not limited to services necessarily or customarily provided in connection with a funeral, or services necessarily or customarily provided in connection with the interment, entombment, or cremation of a dead human body, or a combination of these. "Funeral services" does not include perpetual care or maintenance.

b. "Funeral merchandise" means one or more types of personal property to be used at the time of the final disposition of a dead human body, including but not limited to clothing, caskets, vaults, and interment receptacles. "Funeral merchandise" does not include real property, and does not include grave markers, tombstones, ornamental merchandise, and monuments.

Sec. 3. Chapter 523A, Code 1981, is amended by adding the following new section:

NEW SECTION. COMPLIANCE WITH OTHER LAWS. The seller of funeral services or funeral merchandise shall comply with chapter 82 with respect to all contracts that are subject to regulation under this chapter. A failure to comply is subject to the remedies and penalties provided in that chapter.

Sec. 4. Chapter 523A, Code 1981, is amended by adding the following new section:

NEW SECTION. BOND IN LIEU OF TRUST FUND.

1. In lieu of the trust fund required by sections 523A.1 and 523A.2, a seller may file with the county attorney of the county in which the seller maintains its principal place of business a surety bond in open penalty that is issued by a surety company authorized to do business in this state and that is conditioned on the faithful performance by the seller of agreements subject to this chapter. The liability of the surety extends to each agreement that is subject to this chapter and that is executed during the time the bond is in force and until performance of the agreement or rescission of the agreement by mutual consent of the parties; and, to the extent expressly agreed to in writing by the surety company under subsection 3, paragraph b, the liability of the surety extends to each agreement that is subject to this chapter and that was executed prior to the time the bond was in force and until performance of the agreement or rescission of the agreement by mutual consent of the parties. A buyer who is aggrieved by a breach of a condition of the bond covering the contract of that buyer may maintain an action against the bond, provided that the surety shall not be liable as a result of any breach of condition unless notice of a claim is received by the surety within sixty days following the acts, omissions or conditions constituting the breach of condition, except as otherwise provided in subsection 2. A surety bond submitted under this subsection shall not be canceled by a surety company except upon a written notice of cancellation given by the surety company to the county attorney by restricted certified mail, and the surety bond shall not be canceled prior to the expiration of sixty days after the receipt by the county attorney of the notice of cancellation.

2. If a seller becomes insolvent or otherwise ceases to engage in business prior to or within sixty days after the cancellation of a bond submitted under subsection 1, the seller shall be deemed to have breached the conditions of the surety bond with respect to all outstanding contracts subject to this chapter as of the day prior to cancellation of the bond. The county attorney shall mail written notice by restricted certified mail to the buyer under each outstanding contract of the seller that a claim against the bond must be filed with the surety company within sixty days after the date of mailing of the notice. The surety company shall cease to be liable with respect to all agreements except those for which claims are filed with the surety company within sixty days after the date the notices are mailed by the county attorney.

3. If a surety bond is canceled by a surety company under any conditions other than those specified in subsection 2, the seller shall comply with paragraphs a and b of this subsection:

a. The seller shall comply with the trust requirements of sections 523A.1 and 523A.2 with respect to all contracts subject to this chapter that are executed on or after the effective date of cancellation of the surety bond, or the seller may submit a substitute surety bond meeting the requirements of subsection 1, provided that the seller shall comply with sections 523A.1 and 523A.2 with respect to any contracts executed on or after the effective date of cancellation of the earlier surety bond and prior to the date on which the later surety bond takes effect.

b. Within sixty days after the effective date of the cancellation of the surety bond, the seller shall submit to the county attorney an undertaking by another surety company that a substitute surety bond meeting the requirements of subsection 1 is in effect and that the liability of the substitute surety bond extends to all outstanding contracts of the seller that were executed but not performed or extinguished prior to the effective date of the substitute surety bond, or the seller shall submit to the county attorney a financial statement accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state certifying the total amount of outstanding liabilities of the seller on contracts subject to this chapter and proof of deposit by the seller in trust under sections 523A.1 and 523A.2 of either the amount specified in sections 523A.1 with respect to all of those

outstanding contracts or such lesser amount as is certified in the report of the certified public accountant to be adequate to assure the performance by the seller of each of those outstanding contracts. Upon compliance by the seller with this paragraph, the surety company canceling the surety bond shall cease to be liable with respect to any outstanding contracts of the seller except those with respect to which a breach of condition occurred prior to cancellation and timely claims were filed.

4. Section 523A.2, subsection 1, paragraphs b and f, subsection 5, and, to the extent it is applicable, subsection 6, apply to sellers whose agreements are covered by a surety bond maintained under this section, and section 523A.2 continues to apply to any agreements of those sellers that are not covered by a surety bond maintained under this section.

5. Upon receiving a notice of cancellation of a surety bond, the county attorney shall notify the seller of the requirements of this chapter resulting from cancellation of the bond. The notice may be in the form of a copy of this section and sections 523A.1 and 523A.2.

6. Upon receiving a notice of cancellation, unless the seller has complied with the requirements of this section, the county attorney shall seek an injunction to prohibit the seller from making further agreements subject to this chapter and shall commence an action to attach and levy execution upon property of the seller when the seller fails to perform an agreement subject to this chapter, to the extent necessary to secure compliance with this chapter, and may bring criminal charges under section 523A.2, subsection 6.

Sec. 5. Section 82.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Door-to-door sale" also means a sale of funeral services or funeral merchandise regulated under chapter 523A, irrespective of the place or manner of sale.

Sec. 6. Chapter 523A, Code 1981, as amended by this Act, applies only to agreements executed on or after the effective date of this Act. Agreements executed prior to the effective date of this Act shall be governed by chapter 523A as it existed on the date those agreements were executed.

Approved May 20, 1982

CHAPTER 1250

CHILD CUSTODY IN DISSOLUTIONS

H.F. 2442

AN ACT relating to custody of children upon dissolution of marriage.

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

Section 1. Section 598.1, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Joint custody" or "joint legal custody" means an award of custody of a minor child to both parents under which both parents have rights and responsibilities toward the child and under which neither parent has rights superior to those of the other parent. The court may award physical care to one parent only.

NEW SUBSECTION. "Physical care" means the right and responsibility to maintain the principal home of the minor child and provide for the routine care of the child.

Sec. 2. Chapter 598, Code 1981, is amended by adding the following new section:

NEW SECTION. CUSTODY OF CHILDREN.

1. The court, insofar as is reasonable and in the best interest of the child, shall order the custody award, including liberal visitation rights where appropriate, which will assure a minor child frequent and continuing contact with both parents after the parents have separated or dissolved the marriage, and which will encourage parents to share the rights and responsibilities of raising the child. Unless otherwise ordered by the court in the custody decree, both parents shall have legal access to information concerning the child, including but not limited to medical, educational and law enforcement records.

2. On the application of either parent, the court shall consider granting joint custody in cases where the parents do not agree to joint custody. If the court does not grant joint custody under this subsection, the court shall state in its decision the reasons for denying joint custody. Before ruling upon the joint custody petition in these cases, the court may require the parties to participate in custody mediation counseling to determine whether joint custody is in the best interest of the child. The court may require the child's participation in the mediation counseling insofar as the court determines the child's participation is advisable.

The costs of custody mediation counseling shall be paid in full or in part by the parties and taxed as court costs.

3. In considering what custody arrangement under either subsection 1 or 2 is in the best interests of the minor child, the court shall consider the following factors:

a. Whether each parent would be a suitable custodian for the child.

b. Whether the psychological and emotional needs and development of the child will suffer due to lack of active contact with and attention from both parents.

c. Whether the parents can communicate with each other regarding the child's needs.

d. Whether both parents have actively cared for the child before and since the separation.

e. Whether each parent can support the other parent's relationship with the child.

f. Whether the custody arrangement is in accord with the child's wishes or whether the child has strong opposition, taking into consideration the child's age and maturity.

g. Whether one or both the parents agree or are opposed to joint custody.

h. The geographic proximity of the parents.

4. Joint legal custody does not require joint physical care. When the court determines such action would be in the child's best interest, physical care may be given to one joint custodial parent and not to the other. However, physical care given to one parent does not affect the other parent's rights and responsibilities as a legal custodian of the child.

5. When the parent awarded custody or physical care of the child cannot act as custodian or caretaker because the parent has died or has been judicially adjudged incompetent, the court shall award custody including physical care of the child to the surviving parent unless the court finds that such an award is not in the child's best interests.

Sec. 3. Section 598.12, Code 1981, is amended to read as follows:

598.12 ATTORNEY FOR MINOR CHILD.

1. The court may appoint an attorney to represent the interests of the minor child or children of the parties. ~~Such~~ The attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify before the court on matters pertinent to the interests of the children.

2. The court may require that the department of social services or an appropriate agency make an investigation of both parties regarding the home conditions, parenting capabilities, and other matters pertinent to the best interests of the child or children in a dispute concerning custody of the child or children. The investigation report completed by the department of

social services or an appropriate agency shall be submitted to the court and available to both parties. The investigation report completed by the department of social services or an appropriate agency shall be a part of the record unless otherwise ordered by the court.

3. The court shall enter an order in favor of ~~such~~ the attorney, the department of social services, or an appropriate agency for fees and disbursements, which amount shall be charged against the party responsible for court costs unless the court determines that the party responsible for costs is indigent in which event the fees shall be borne by the county.

Sec. 4. Section 598.21, subsection 1, paragraph g, Code 1981, is amended to read as follows:

g. The desirability of awarding the family home or the right to live in the family home for a reasonable period to the party having custody of ~~any~~ the children, or if the parties have joint legal custody, to the party having physical care of the children.

Sec. 5. Section 598.21, subsection 3, paragraph e, Code 1981, is amended to read as follows:

e. The earning capacity of the party seeking maintenance, including educational background, training, employment skills, work experience, length of absence from the job market, ~~custodial~~ responsibilities for children under either an award of custody or physical care, and the time and expense necessary to acquire sufficient education or training to enable the party to find appropriate employment.

Sec. 6. Section 598.21, subsection 4, paragraph d, Code 1981, is amended to read as follows:

d. The desirability that the ~~custodian~~ party awarded either sole custody or, in the case of joint custody, physical care remain in the home as a full-time parent.

Sec. 7. Section 598.21, subsection 4, paragraph e, Code 1981, is amended to read as follows:

e. The cost of day care if the ~~custodian~~ party awarded either sole custody or, in the case of joint custody, physical care works outside the home, or the value of ~~custodial~~ the child care services performed by the ~~custodian~~ party if the ~~custodian~~ party remains in the home.

Sec. 8. Section 598.21, subsection 6, Code 1981, is amended to read as follows:

6. The court may provide for joint custody of the children by the parties pursuant to section 2 of this Act. ~~Orders~~ All orders relating to custody of a child are subject to ~~the provisions of~~ chapter 598A.

Sec. 9. Section 598.21, subsection 8, Code 1981, is amended to read as follows:

8. The court may subsequently modify orders made under this section when there is a substantial change in circumstances. ~~Any~~ The court contemplating a change in child support because of alleged change in circumstances shall ~~take into consideration~~ consider each parent's earning capacity, economic circumstances and cost of living. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 2 of this Act.

Approved May 17, 1982

CHAPTER 1251

MOBILE HOME TAXES AND REGISTRATION

H.F. 2484

AN ACT relating to mobile homes by providing that the semiannual mobile home tax is due and payable and delinquent at the same time as real property taxes, that mobile homes may be sold for delinquent taxes in the same manner as real property, that title shall not be transferred if taxes are owing, that mobile homes are not subject to annual registration, and that before mobile homes can be transported a tax clearance that taxes are not owing must be obtained, requiring that present owners who are not titled in the county where their mobile homes are located must notify the county treasurer, making coordinating amendments and providing a January 1 effective date.

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

Section 1. Section 135D.22, subsection 7, Code 1981, is amended to read as follows:

7. On or before ~~February~~ April 1 of each year, each mobile home owner eligible for a reduced tax rate shall file a claim for ~~such~~ this tax rate with the county treasurer. The forms for filing the claim shall be provided by the department of revenue. The forms shall require ~~such~~ information as ~~is~~ determined by the director of revenue. The reduced tax rate ~~shall be~~ is applicable to both semiannual tax payments due in the calendar year in which the claim is filed. If an eligible mobile home owner fails to file a claim by ~~February~~ April 1, ~~no~~ the reduced tax rate shall not be granted for the semiannual tax payment due by ~~February~~ April 1, of that year. Claims filed with the county treasurer after ~~February~~ April 1, but before ~~August~~ October 1, ~~shall be~~ are applicable to the semiannual tax payment due by ~~August~~ October 1, only.

On or before ~~March~~ April 15, ~~1977, and~~ of each year ~~thereafter~~, the county treasurer ~~of each county~~ shall prepare a statement listing for each taxing district in the county the total amount of taxes which will not be collected for the calendar year ~~1977, and each year thereafter,~~ by reason of the reduced tax rate granted under subsection 2. The county treasurer shall certify and forward ~~such~~ the statement to the director of revenue not later than ~~March~~ April 15 of each year.

The director of revenue shall certify to the state comptroller the amount due to each county, which amount shall be the dollar amount which will not be collected due to the granting of the reduced tax rate under ~~this~~ subsection 2.

The amounts due each county shall be paid in two equal payments by the state comptroller on ~~April~~ May 15 and ~~October~~ November 15 of each year, drawn upon warrants payable to the respective county treasurers. The county treasurer in each county shall apportion ~~such~~ the payment in accordance with section 135D.25.

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 ~~section~~ subsection.

Sec. 2. Section 135D.24, Code 1981, is amended to read as follows:

135D.24 COLLECTION OF TAX. The semiannual tax ~~provided herein shall be~~ is due and payable to the county treasurer semiannually on or before ~~January~~ March 1 and ~~July~~ September 1 in each year; and ~~shall be~~ is delinquent ~~February~~ April 1 and ~~August~~ October 1 in

each year, after which a penalty of one percent shall be added each month until paid except that the limitation in section 445.20 applies. The semiannual payment of taxes ~~and license~~ may be paid at one time if so desired. A mobile home parked and put to use at any time after ~~January~~ March 1 or ~~July~~ September 1 ~~shall be immediately~~ is subject to the ~~said~~ taxes prorated for the remaining months ~~or days~~ of the tax period. ~~Said tax shall be due and payable immediately, and delinquent thirty days after said parking and subject to the same penalties herein set out.~~ Not more than thirty days nor less than ten days prior to the date that the tax becomes delinquent, the county treasurer shall cause to be published in a newspaper of general circulation in the county, a notice to mobile home owners. The ~~notification~~ notice shall include the date the tax becomes delinquent, and the penalty which ~~will apply~~ applies when it is delinquent.

Mobile home owners upon issuance of a certificate of title or upon transporting to a new site shall ~~register~~ file the address, township, and school district, of the location where the mobile home is parked with the county treasurer's office. Failure to comply ~~shall be~~ is punishable as set out in section 135D.18.

Each mobile home park licensee ~~is hereby required to~~ shall keep an accurate and complete record of the number of units of mobile homes harbored in ~~his~~ the park, listing the owner's name, year and make of the unit ~~and whether there is a current registration plate~~, and ~~to~~ report ~~such~~ this information on or before the tenth day of ~~January~~ March and ~~July~~ September with supplemental monthly reports listing arrivals~~,~~ and departures~~, and unlicensed~~ of mobile homes for which a tax clearance statement was not issued to the county treasurer. The records of ~~such~~ the licensee shall be open to inspection by a duly authorized representative of any law enforcement agency. Any property owner, manager or tenant shall report to the ~~assessor any and all~~ county treasurer mobile homes parked upon any property owned, managed, or rented by ~~him~~ that person.

~~The county treasurer shall report the name of any owner of a mobile home and the year, make, and serial number of each unit on which there is no current registration plate to the county sheriff, who shall be the enforcement agency for enforcement of the tax provisions imposed by this chapter.~~

The tax ~~and registration fee shall be~~ is a lien on the vehicle senior to any other lien ~~there may be~~ upon it. The mobile home ~~and automobile~~ bearing a current registration ~~plates~~ issued by any other state ~~than the state of Iowa~~ and remaining within this state for an accumulated period not to exceed ninety days in any twelve-month period ~~shall~~ is not ~~be~~ subject to Iowa tax. However, when one or more persons occupying a mobile home bearing a foreign registration are employed in this state, there ~~shall be~~ is no exemption from the Iowa ~~registration and~~ tax ~~herein provided~~. This tax ~~shall be~~ is in lieu of all other taxes general or local on a mobile home.

A modular home as defined by this chapter ~~shall~~ is 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 427.

Before a mobile home may be moved from its present site, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. However, a tax clearance statement shall not be required for a mobile home in a manufacturer's or dealer's stock which is not used as a place for human habitation. The tax clearance statement shall be provided by the county treasurer and shall be made out in quadruplicate. Two copies are to be provided to the company or person transporting the mobile home with one copy to be carried in the vehicle transporting the mobile home. One copy is to be forwarded to the county treasurer of the

county in which the mobile home is to be relocated and one copy is to be retained by the county treasurer issuing the tax clearance statement.

Sec. 3. Section 135D.25, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Chapters 446, 447, and 448 apply to the sale of a mobile home for the collection of delinquent taxes and penalties, the redemption of a mobile home sold for the collection of delinquent taxes and penalties, and the execution of a tax sale certificate of title for the purchase of a mobile home sold for the collection of delinquent taxes and penalties in the same manner as though a mobile home were real property within the meaning of these chapters to the extent consistent with this chapter.

Sec. 4. Section 321.18, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Any mobile home.

Sec. 5. Section 321.20, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Except as ~~otherwise~~ provided in this chapter, every owner of a vehicle subject to registration ~~hereunder~~ shall make application to the county treasurer, of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, for the registration and issuance of a certificate of title ~~thereof~~ for the vehicle upon the appropriate form furnished by the department, accompanied by a fee of two dollars, and every ~~such~~ application shall bear the signature of the owner written with pen and ink. However, a nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home shall make application for a certificate of title under this section. The application shall contain:

Sec. 6. Section 321.21, subsections 1 and 6, Code 1981, are amended to read as follows:

1. A person owning any special mobile equipment ~~as herein defined~~ may make application to the department, upon the appropriate form furnished by the department, for a certificate containing a general distinguishing number and for one or more ~~pairs of special mobile equipment plates or single~~ special mobile equipment plates ~~as appropriate to various types of special mobile equipment~~. The applicant shall also submit proof of the status of the vehicle ~~or vehicles~~ as special mobile equipment as may reasonably be required by the department. If the application is for a mobile home, one copy of the tax clearance form issued to the owner of the mobile home must be submitted by the person transporting the mobile home or other evidence of current taxes being paid as prescribed by the department.

6. The certificate and plates issued ~~hereunder~~ shall be for purposes of identification only and shall not constitute a registration as required under ~~the provisions of~~ this chapter. A certificate of title need not be executed when the certificate and plates are issued ~~hereunder~~ and a certificate of title need not be delivered to the purchaser or transferee when special mobile equipment is sold or ~~otherwise~~ disposed of unless the special mobile equipment is a mobile home.

Sec. 7. Section 321.21, Code 1981, as amended by Senate File 2183, enacted by the Sixty-ninth General Assembly, 1982 Session, section 1, is amended by adding the following new subsection:

NEW SUBSECTION. The department may issue temporary written authorization. The temporary authority shall permit the operation of special mobile equipment until permanent identification is issued, except that the temporary authority shall expire after ten days.

Sec. 8. Section 321.24, Code 1981, is amended to read as follows:

321.24 ISSUANCE OF REGISTRATION AND CERTIFICATE OF TITLE. Upon receipt of the application for title and payment of the required fees for motor vehicle, trailer, or

semitrailer, the county treasurer shall, when satisfied as to the application's genuineness and regularity ~~thereof~~, and, in the case of a mobile home, that taxes are not owing under chapter 135D, issue a ~~registration receipt and~~ certificate of title and, except for a mobile home, a registration receipt and shall file the application, the manufacturer's or importer's certificate, certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon ~~the~~ its face ~~thereof~~ the date issued, the name and address of the owner, the registration number assigned to the vehicle, the title number assigned to the owner of the vehicle, the amount of the fee paid, the amount of tax paid pursuant to section 423.7, type of fuel used and ~~such~~ a description of the vehicle as determined by the department and upon the reverse side a form for notice of transfer of the vehicle. The county treasurer shall maintain in the county record system information contained on the registration receipt. ~~Such~~ The information shall be accessible by registration number and shall be open for public inspection during reasonable business hours. ~~Such copies as~~ Copies the department ~~may require~~ requires shall be sent to the department in the manner and at ~~such~~ the time ~~as~~ the department ~~may direct~~ directs. The certificate of title shall contain upon ~~the~~ its face ~~thereof~~ the identical information required upon the face of the registration receipt. In addition ~~thereto~~, the certificate of title shall contain a statement of the owner's title, the amount of tax paid pursuant to section 423.7, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle ~~therein~~ described including the nature of the security interest, date of notation and name and address of the secured party. ~~Said~~ The certificate shall bear ~~thereon~~ the seal of the county treasurer, the signature of the county treasurer or that of the deputy county treasurer, and shall provide space for the signature of the owner. The owner shall sign the certificate of title in the space provided with pen and ink upon its receipt ~~of certificate of title~~. The certificate of title shall contain upon the reverse side a form for assignment of title or interest and warranty ~~thereof~~ by the owner, for reassignments by a licensed dealer and for application for a new certificate of title by the transferee as provided in this chapter. All certificates of title shall be typewritten or printed by other mechanical means. The original certificate of title shall be delivered to the owner ~~in the event~~ if no security interest or encumbrance appears thereon. Otherwise the certificate of title shall be delivered by the county treasurer to the person holding the first security interest or encumbrance as shown in the certificate. The county treasurer shall maintain in the county records system information contained on the certificate of title. ~~Such~~ The information shall be accessible by title certificate number for a period of three years from the date of notification of cancellation of title or that a new title has been issued as provided in this chapter. ~~Such copies as~~ Copies the department ~~may require~~ requires shall be sent to the department in the manner and at ~~such~~ the time ~~as~~ the department ~~shall direct~~ directs. The department shall designate a uniform system of title numbers ~~so as~~ to indicate the county of issuance.

If the county treasurer or department is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the county treasurer or department may register the vehicle but shall as a condition of issuing a certificate of title and registration receipt, require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and either accompanied by the deposit of cash with the department or also executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the current value of the vehicle as determined by the department and conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and

interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond, and any deposit accompanying it, shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

Sec. 9. Section 321.30, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. In the case of a mobile home, that taxes are owing under chapter 135D for a previous year.

Sec. 10. Section 321.45, subsection 4, Code 1981, is amended to read as follows:

4. Within ~~five~~ seven days of the sale and delivery of a mobile home, the dealer making the sale shall certify to the county treasurer of the county where the unit is ~~to be located~~ delivered, the name and address of the purchaser, the point of delivery to the purchaser, and the make, year of manufacture, taxable size, and identification number of the unit.

Sec. 11. Section 321.46, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Upon filing the application for a registration transfer and a new title, the applicant shall pay a fee of two dollars. The county treasurer, if satisfied of the genuineness and regularity of the application, and in the case of a mobile home, that taxes are not owing under chapter 135D, and that applicant has complied with all the requirements of this chapter, shall ~~forthwith~~ issue a new certificate of title and, except for a mobile home, a registration card to the purchaser or transferee and shall forward the necessary copies to the department on the date of issuance, as prescribed in section 321.24.

Sec. 12. Section 321.57, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Mobile home dealers licensed under chapter 322B may transport and deliver mobile homes in their inventory upon the highways of this state with a special plate displayed on the mobile home as provided in sections 321.58 to 321.62.

Sec. 13. Section 321.58, Code 1981, is amended to read as follows:

321.58 APPLICATION. All dealers, ~~and~~ transporters and mobile home dealers licensed under chapter 322B may, upon payment of a fee of thirty-five dollars, make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more special plates as appropriate to various types of vehicles subject to registration. The applicant shall also submit proof of the applicant's status as a bona fide transporter, mobile home dealer licensed under chapter 322B, or dealer as reasonably required by the department. Dealers in new vehicles shall furnish satisfactory evidence of a valid franchise with the manufacturer of the vehicles authorizing the dealership.

Sec. 14. Section 321.101, subsection 8, Code 1981, is amended to read as follows:

8. The department ~~is hereby authorized, and it~~ shall ~~be its duty, to~~ cancel a certificate of title that appears to have been improperly issued or fraudulently obtained or in the case of a mobile home, if taxes were owing under chapter 135D at the time the certificate was issued and have not been paid. However, before the certificate to a mobile home where taxes were owing can be canceled, notice and opportunity to pay the taxes must be given to the person to whom the certificate was issued. Upon cancellation of any certificate of title the department shall notify the county treasurer who issued ~~the same~~ it, who shall ~~forthwith~~ enter the cancellation upon ~~his~~ the records. The department shall also notify the person to whom ~~such~~ the certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of ~~such~~ the certificate of title, but the cancellation shall not affect the validity of any lien noted thereon.

Sec. 15. Section 321.104, subsection 6, Code 1981, is amended to read as follows:

6. For a dealer to sell or transfer a mobile home without delivering to the purchaser or transferee a certificate of title, a manufacturer's or importer's certificate properly assigned to the purchaser, or to transfer a mobile home without disclosing to the purchaser the owner of the mobile home in a manner prescribed by the department pursuant to rules or to fail to certify within seven days to the proper county treasurer the information required under section 321.45, subsection 4.

Sec. 16. Section 321.123, unnumbered paragraph 1, Code 1981, is amended to read as follows:

All trailers except farm trailers and mobile homes, unless otherwise provided in this section, ~~shall be~~ are subject to a registration fee of four dollars for trailers with a gross weight of one thousand pounds or less and ten dollars for other trailers. Trailers for which the empty weight is two thousand pounds or less ~~shall be~~ are exempt from the certificate of title and lien provisions of this chapter. Fees collected under this section shall not be reduced or prorated under ~~the provisions of~~ chapter 326.

Sec. 17. Section 321.123, subsection 1, unnumbered paragraph 1, Code 1981, is amended by striking the paragraph.

Sec. 18. Section 321.123, subsection 1, unnumbered paragraph 4, Code 1981, is amended to read as follows:

If a ~~mobile home or~~ travel trailer ~~shall have~~ has been registered under ~~the provisions of~~ this chapter at any time during a calendar year, ~~said mobile home or~~ the travel trailer ~~shall~~ is not ~~be~~ subject to a personal property tax for ~~said~~ that year.

Sec. 19. Chapter 321E, Code 1981, is amended by adding the following new section:

NEW SECTION. All mobile homes moved in this state which are registered in another state shall only be moved on the highways with a permit issued under sections 321E.8 and 321E.28.

Sec. 20. Section 422.45, subsection 4, Code 1981, is amended to read as follows:

4. The gross receipts from sales of vehicles subject to registration or subject only to the issuance of a certificate of title.

Sec. 21. Section 423.1, subsection 9, Code 1981, is amended to read as follows:

9. "Trailer" shall mean every trailer, as is now or may be hereafter so defined by the motor vehicle law of this state, which is required to be registered or is subject only to the issuance of a certificate of title under such motor vehicle law.

Sec. 22. Section 423.1, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Certificate of title" means a certificate of title issued for a vehicle under chapter 321.

Sec. 23. Section 423.4, subsections 1 and 4, Code 1981, are amended to read as follows:

1. Tangible personal property, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by division IV of chapter 422, and any amendments made or which may hereafter be made thereto. This exemption does not include vehicles subject to registration or subject only to the issuance of a certificate of title.

4. Tangible personal property, the gross receipts from the sale of which are exempted from the retail sales tax by the terms of section 422.45, except subsection 4 and subsection 6 of section 422.45 as it relates to the sale of vehicles subject to registration or subject only to the issuance of a certificate of title.

Sec. 24. Section 423.6, subsection 1, Code 1981, is amended to read as follows:

1. The tax upon the use of all vehicles subject to registration or subject only to the issuance of a certificate of title shall be collected by the county treasurer or the state department of transportation pursuant to ~~the provisions of~~ section 423.7. The county treasurer shall retain twenty-five cents from each tax payment collected, to be credited to the county general fund.

Sec. 25. Section 423.7, Code 1981, is amended to read as follows:

423.7 VEHICLES SUBJECT TO REGISTRATION. The tax imposed upon the use of vehicles subject to registration or subject only to the issuance of a certificate of title shall be paid by the owner of the vehicle to the county treasurer or the state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or certificate of title shall not be issued until the tax has been ~~so~~ paid. The county treasurer or the state department of transportation shall require every applicant for a registration receipt for a vehicle subject to registration or certificate of title to supply information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, and other information relative to the purchase of the vehicle ~~subject to registration~~. On or before the tenth day of each month the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month, accompanied by a copy of each registration receipt issued in conjunction with the certificate of title issued for each vehicle ~~subject to registration~~.

Sec. 26. Section 423.8, Code 1981, is amended to read as follows:

423.8 SALES TAX REPORT—DEDUCTION. Motor vehicle or trailer dealers, in making their reports and returns to the department for the purpose of paying the retail sales tax imposed by division IV of chapter 422, shall be permitted to deduct all gross receipts from retail sales of vehicles subject to registration or subject only to the issuance of a certificate of title. Gross receipts from sales of vehicles subject to registration or subject only to the issuance of a certificate of title are ~~hereby expressly~~ exempted from the tax imposed by ~~said~~ division IV, but, if required by the director, ~~such~~ the gross receipts shall be included in the returns made by motor vehicle or trailer dealers under ~~said~~ division IV, and proper deductions taken pursuant to this section.

Sec. 27. Each owner of a mobile home which is not registered in the county on the effective date of the Act where the mobile home is located shall notify the county treasurer, within seven days of the notice given under this section, of the address, township, and school district where the mobile home is located and its make, taxable size, and identification number. If the owner does not have an Iowa certificate of title, the owner shall apply, within seven days of the notice given under this section, for a certificate of title. Each county treasurer shall publish a notice of the requirements of this section in a newspaper in the county once each week for two consecutive weeks.

Sec. 28. This Act takes effect January 1 following its enactment.

Approved May 21, 1982

CHAPTER 1252

INTERGOVERNMENTAL RELATIONS ADVISORY COMMISSION

H.F. 2357

AN ACT to establish an Iowa advisory commission on intergovernmental relations.

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

Section 1. NEW SECTION. FINDINGS AND PURPOSES. The general assembly finds that there is a need for an intergovernmental body to study and report on the:

1. Current pattern of local governmental structure.
2. Powers and functions of local governments, including their fiscal powers.
3. Existing, necessary, and desirable relationships among local governments and the state.
4. Necessary and desirable allocation of state and local fiscal resources.
5. Necessary and desirable roles of the state as the creator of local governmental systems.
6. Special problems in interstate areas facing their general local governments, interstate regional units, and area-wide bodies, the studies, where possible, to be conducted in conjunction with studies of commissions on intergovernmental relations of other states.

Sec. 2. NEW SECTION. COMMISSION CREATED—MEMBERSHIP.

1. An Iowa advisory commission on intergovernmental relations is created.
2. The membership of the commission shall be:

a. Four elected or appointed state officers, four elected or appointed county officers, four elected or appointed city officers, four elected or appointed officers of school corporations, and one member or staff member of a regional council of governments established under chapter 28E, appointed by the governor.

b. Two state senators appointed by the president of the senate.

c. Two state representatives appointed by the speaker of the house of representatives.

3. In making all appointments, consideration shall be given to population factors, the representation of different geographic regions, and the demography of the state.

4. The initial chairperson of the commission shall be designated by the governor from among the commission members for a term of one year. Subsequent chairpersons shall be elected by the commission from among its membership for a term of one year. A vice chairperson may be elected by the commission from among its membership for a one-year term. In case of the absence or disability of the chairperson and vice chairperson, the members of the commission shall elect a temporary chairperson by a majority vote of those members who are present and voting.

5. The members shall be appointed to two-year staggered terms. However, of the members of the initial commission, eight of the members appointed by the governor shall be appointed to an initial term of one year and one legislative member appointed by the speaker of the house and the president of the senate shall be appointed to initial terms of one year. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. If a member ceases to be an officer or employee of the governmental unit or agency which qualifies the person for membership on the commission, a vacancy shall exist and a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

6. Of the members who are county officers appointed by the governor, not more than two shall be members of the same political party. Of the members appointed by the president of the senate and the speaker of the house of representatives, not more than one from each house shall be a member of the same political party.

7. A majority of the commission constitutes a quorum.

Sec. 3. NEW SECTION. DUTIES. The commission shall:

1. Engage in activities and make studies and investigations as necessary or desirable to accomplish the purposes specified in section 1 of this Act.

2. Encourage and, where appropriate, coordinate studies relating to intergovernmental relations conducted by universities, state, local, and federal agencies, and research and consulting organizations.

3. Review the recommendations of national commissions studying federal, state, and local government relationships and problems and assess their possible application to this state.

Sec. 4. NEW SECTION. ORGANIZATION—MEETINGS.

1. The commission shall hold meetings quarterly and at other times as necessary. The commission may hold public hearings on matters within its purview.

2. The commission may establish committees as it deems advisable and feasible, whose membership shall include at least one member of the commission, but only the commission may take final action on a proposal or recommendation of a committee.

3. The commission is not an agency as defined in, or for the purpose of, chapter 17A.

4. All meetings of the commission or a committee established by the commission at which public business is discussed or formal action is taken, shall comply with chapter 28A.

Sec. 5. NEW SECTION. STAFF—FACILITIES.

1. The commission may accept technical and operational assistance from the staff of the office for planning and programming, other state and federal agencies, units of local governments, or any other public or private source. The director of the office for planning and programming shall assign professional, technical, legal, clerical, or other staff, as necessary and authorized for continued operation of the commission. However, the technical and operational assistance shall be provided within appropriations made to the office to carry out its powers and duties under chapter 7A and additional staff shall not be employed to provide the technical and operational assistance.

2. The director of the office for planning and programming may also provide available facilities and equipment as requested by the commission.

3. The members of the commission are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties. The expenses shall be paid from funds appropriated to the office for planning and programming.

Sec. 6. NEW SECTION. REPORTS. The commission shall submit an annual report of its findings and recommendations to the governor, president of the senate, speaker of the house, and the majority and minority leaders of each house, and make the report available to legislators upon request. The report shall also be made available to the public.

Sec. 7. NEW SECTION. INFORMATION. The commission may request from any state agency or official the information and assistance as needed to perform the duties of the commission. A state agency or official shall furnish the information or assistance requested within the authority and resources of the state agency or official. This section does not require the production or opening of any public record which is required by law to be kept private or confidential.

Sec. 8. REPEALER. This Act is repealed effective June 30, 1986.

Approved May 13, 1982

CHAPTER 1253

FINANCIAL INSTITUTION REGULATION

S.F. 2300

AN ACT relating to the regulation of financial institutions.

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

Section 1. Section 524.706, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. An executive officer of a state bank may receive loans or extensions of credit from a state bank of which ~~he~~ the person is an executive officer, resulting in obligations as defined in section 524.904, subsection 1, not exceeding, in the aggregate:

(1) ~~Such amount as the bank is permitted to lend pursuant to section 524.905, subsection 2, if, at the time such obligation is incurred, it is~~ An amount secured by a ~~first~~ lien on a dwelling which is expected, after the obligation is incurred, to be owned by the executive officer and used ~~by him~~ as ~~his~~ the officer's residence, provided that ~~at the time~~ after the loan is made there is no other loan by the bank to the executive officer, under authority of this subparagraph, outstanding; ~~and~~.

(2) An amount not exceeding an aggregate of twenty thousand dollars outstanding at any one time, to finance the education of a child or children of the executive officer; ~~and~~.

(3) Any other loans or extensions of credit which in the aggregate do not at any one time exceed ten thousand dollars.

(4) Other amounts which do not, in the aggregate, exceed the principal amounts of time certificates of deposit in the bank which are held in the name of the executive officer, if repayment of the loan or credit amounts is at all times secured by pledge of the certificates. An interest in or portion of a time certificate of deposit does not satisfy the requirements of this subparagraph if that interest or portion is also pledged to secure the payment of a debt or obligation of any person other than the executive officer.

Sec. 2. Section 524.905, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 173, section 5, is amended by striking the section and inserting in lieu thereof the following:

524.905 LOANS ON REAL PROPERTY. A state bank may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the superintendent under chapter 17A. The rules shall include provisions as necessary to insure the safety and soundness of these loans, and to insure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

A bank may include in the loan documents signed by the borrower a provision requiring the borrower to pay the bank each month in addition to interest and principal under the note an

amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the bank in order to better secure the loan. The bank shall be deemed to be acting in a fiduciary capacity with respect to these funds. A bank receiving funds in escrow pursuant to an escrow agreement executed on or after the effective date of this Act in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the bank pays to depositors of funds in ordinary savings accounts. A bank which maintains an escrow account in connection with any loan authorized by this section, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

Sec. 3. Section 524.1802, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. No bank holding company shall directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of any savings and loan association, or the power to control in any manner the election of a majority of the directors of any savings and loan association, if upon such acquisition the associations so owned or controlled by the bank holding company would have, in the aggregate, more than eight percent of the total deposits, both time and demand, of all associations in this state, as determined by the superintendent on the basis of the most recent reports of the associations in the state to their supervisory authorities which are available at the time of the acquisition.

Sec. 4. Section 533.4, subsection 21, Code 1981, is amended to read as follows:

21. ~~Notwithstanding the provisions of section 533.16, subsection 4, a~~ A credit union may take a second mortgage on real property to secure a loan made by the credit union, ~~subject~~ pursuant to rules ~~promulgated~~ adopted by the administrator.

Sec. 5. Section 533.16, subsection 4, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

4. A credit union may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the administrator under chapter 17A. These rules shall contain provisions as necessary to insure the safety and soundness of these loans, and to insure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

A credit union may include in the loan documents signed by the borrower a provision requiring the borrower to pay the credit union each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the credit union in order to better secure the loan. The credit union shall be deemed to be acting in a fiduciary capacity with respect to these funds. A credit union receiving funds in escrow pursuant to an escrow agreement executed on or after the effective date of this Act in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the credit union pays to its members on ordinary savings deposits. A credit union which maintains an escrow account in connection with any loan authorized by this subsection, whether or

not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

Sec. 6. Section 534.2, subsection 1, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

1. "Association" or "state association" means a corporation holding a certificate of authority to operate under this chapter as either a mutual association or a stock association.

Sec. 7. Section 534.2, subsection 7, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Insured", when used in conjunction with the words "association", "state association", "foreign association", or "federal association", means an institution whose deposits are insured in part by the federal savings and loan insurance corporation.

Sec. 8. Section 534.2, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Bank" means any person who is authorized under chapter 524 to engage in the business of banking in this state.

NEW SUBSECTION. "Bank holding company" means a bank holding company as defined in section 524.1801 that is authorized under chapter 524, division XVIII, to do business in this state as a bank holding company.

NEW SUBSECTION. "Federal association" means a corporation operating under the federal Home Owners' Loan Act of 1933 as either a mutual association or a stock association.

NEW SUBSECTION. "Association holding company" means a person other than an individual that directly or indirectly owns, controls or votes more than twenty-five percent of any class of voting stock of a stock association or that controls in any manner the election of a majority of the directors of a stock association or mutual association.

NEW SUBSECTION. "Mutual association" means a corporation organized on a mutual ownership basis without shareholders.

NEW SUBSECTION. "Residential real estate" means real estate on which there is located, or will be located following the construction of improvements pursuant to a real estate loan, a structure or structures designed or used primarily to provide living accommodations for people, except structures which are designed to primarily provide accommodations to transients.

NEW SUBSECTION. "Savings account" means a deposit account in a stock association or mutual association or a withdrawable share account or time share account in a mutual association.

NEW SUBSECTION. "Service corporation" means a corporation which is organized under chapter 496A and which is owned in any part by one or more state associations or federal associations or a combination of these.

NEW SUBSECTION. "Stock association" means a corporation owned by shareholders.

NEW SUBSECTION. "Supervised organization" means an association, association holding company, service corporation, licensed foreign association, or a subsidiary of an association, holding company, service corporation, or licensed foreign association.

NEW SUBSECTION. "Superintendent" means the superintendent of banking.

Sec. 9. Section 534.5, subsection 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 175, section 1, is amended to read as follows:

1. EXCLUSIVENESS OF ACCESS. Every member shall have the right to inspect such books and records of an association as pertain to the member's loan or savings investment. Otherwise, the right of inspection and examination of the books and records shall be limited (a) to the supervisor or a duly authorized representative as provided in this chapter (b) to persons duly authorized to act for the association, and (c) to any federal instrumentality or agency

authorized to inspect or examine the books and records of an insured association or of an uninsured member by the federal home loan bank. The accounts and loans of members shall be kept confidential by the association, its directors, officers and employees, and by the supervisor and the supervisor's examiners and representatives, provided that the association may, upon receipt of the written consent of a member, furnish information concerning that member's loans and savings investments to a person who the association has reason to believe intends to use the information in connection with a credit transaction involving the member on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the member. No member or any other person shall have access to the books and records ~~or shall possess a partial or complete list of the members~~ except upon express action and authority of the board of directors. Every association shall compile prior to its annual meeting, and shall make available to any member upon request of the member, a list by name of the aggregate remuneration paid by the association during the preceding fiscal year to each of the association's five highest paid officers and to each director of the association.

Sec. 10. Section 534.11, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 175, section 2, is amended to read as follows:

534.11 ~~SHARE~~ SAVINGS ACCOUNTS.

1. OWNERSHIP. ~~Share~~ Savings accounts may be opened and held solely and absolutely in ~~his~~ the person's own right by, or in trust for, any person, including an adult or minor individual, male or female, single or married, a partnership, association, fiduciary corporation, or political subdivision or public or government unit or any other corporation or legal entity. ~~Share~~ Savings accounts shall be represented only by the account of each ~~share~~ savings account holder on the books of the association, and shall be transferable only on the books of the association and upon proper application by the transferee and upon acceptance of the transferee as a ~~member~~ savings account holder upon terms approved by the board of directors. The association may treat the holder of record of a ~~share~~ savings account as the owner ~~thereof~~ for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing notice of a pledge of ~~such share~~ the savings account.

2. EVIDENCE OF OWNERSHIP. An account book may be issued to each ~~share~~ savings account holder on the books of the association and ~~such~~ the account book shall, if issued, indicate the withdrawal value of the ~~share~~ account. A separate certificate for a ~~share~~ savings account may be issued in lieu of an account book in form to be approved by the supervisor.

3. DUPLICATE ACCOUNT BOOKS AND CERTIFICATES. Upon the filing with an association by any one of the holders of record as shown by the books of the association, or by ~~his~~ the holder's legal representative, of an affidavit to the effect that the account book or certificate evidencing ~~his share a~~ savings account with the association has been lost or destroyed, and that ~~such~~ the account book or certificate has not been pledged or assigned in whole or in part, ~~such~~ the association shall issue a new account book or certificate in the name of the holder or holders of record, ~~such~~ the replacement book ~~stating~~ or certificate disclosing that it is issued in lieu of one lost or destroyed, and the association shall in no way be liable thereafter on account of the original account book or certificate, provided that the board of directors shall, if in its judgment it is necessary, require a bond in an amount it deems sufficient to indemnify the association against any loss which might result from the issuance of ~~such~~ the new account book or certificate.

4. MINORS. An association and ~~any~~ a federal savings and loan association may issue ~~share accounts~~ a savings account to any minor as the sole and absolute owner of ~~such share~~ the account, and pay withdrawals and act with respect to ~~such accounts~~ the account on the order of ~~such~~ the minor. Any payment or delivery of rights to any minor, or a receipt of acquittance

signed by a minor, who holds a ~~share~~ savings account, shall be a valid and sufficient release and discharge of ~~such~~ the institution for any payment so made or delivery of right to ~~such~~ the minor. In the case of a minor, the receipt, acquittance or other action required by the institution to be taken by the minor shall be binding upon ~~such~~ the minor with like effect as if ~~he~~ the minor were of full age and legal capacity. The parent or guardian of ~~such~~ a minor shall not in ~~his~~ the capacity ~~as~~ of parent or guardian have the power to attach or in any manner to transfer any ~~share~~ savings account issued to or in the name of ~~such~~ the minor, provided, however, that in the event of the death of ~~such~~ the minor the receipt of acquittance of either parent or of a person standing in loco parentis to ~~such~~ the minor shall be a valid and sufficient discharge of ~~such~~ the institution for any sum or sums not exceeding ~~the aggregate~~ one thousand dollars in the aggregrate unless the minor ~~shall have~~ previously has given written notice to the institution not to accept the signature of ~~such~~ the parent or person.

5. JOINT ACCOUNTS. When a ~~share~~ savings account is opened in any association or federal savings and loan association in the name of two or more persons, whether minor or adult, in such form that the moneys in the account are payable to either or the survivor or survivors then ~~such~~ the account and all additions thereto shall be the property of ~~such~~ those persons as joint tenants. The moneys in ~~such~~ the account may be paid to or on the order of any one of ~~such persons~~ them during their lifetimes or to or on the order of any one of the survivors of them after the death of any one or more of them upon presentation of the pass or account book or other evidence of ownership as required by the articles or bylaws of the association. The opening of the account in such form shall, in the absence of fraud or undue influence, be conclusive evidence in any act or proceedings to which either the association or the surviving party or parties is a party, of the intention of all of the parties to the account to vest title to ~~such~~ the account and the additions thereto in ~~such~~ the survivor or survivors. By written instructions given to the institution by all the parties to the account, the signatures of more than one of ~~such~~ the persons during their lifetime or of more than one of the survivors after the death of any one of them may be required on any check, receipt or withdrawal order, in which case the institution shall pay the moneys in the account only in accordance with ~~such~~ the instructions, but ~~no such~~ instructions of the parties shall not in any event limit the right of the survivor or survivors to receive the moneys in the account.

Payment of all or any of the moneys in ~~such~~ an account as provided in the preceding paragraph of this ~~section~~ subsection shall discharge the institution from liability with respect to the moneys so paid, prior to receipt by the institution of a written notice from any one of ~~them~~ the parties directing the institution not to permit withdrawals in accordance with the terms of the account or the instructions. After receipt of such a notice an institution may refuse~~,~~ without liability to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties. ~~No~~ An institution paying any survivor in accordance with the provisions of this subsection shall ~~thereby~~ not be liable as a result of that action for any estate, inheritance or succession taxes which may be due this state.

6. PLEDGE TO ASSOCIATION OF ~~SHARE~~ SAVINGS ACCOUNT IN JOINT TENANCY. The pledge to any association or federal savings and loan association of all or part of a ~~share~~ savings account in joint tenancy signed by that person or those persons who are authorized in writing to make withdrawals from the account shall, unless the terms of the ~~share~~ savings account provide specifically to the contrary, be a valid pledge and transfer to the association of that part of the account pledged, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account.

7. ACCOUNTS OF ADMINISTRATORS, EXECUTORS, GUARDIANS, CUSTODIANS, TRUSTEES AND OTHER FIDUCIARIES. Any association or federal savings and loan association may accept ~~share~~ savings accounts in the name of any administrator, custodian, executor, guardian, trustee, or other fiduciary in trust for a named beneficiary or beneficiaries,

or other fiduciary in trust for a specified class of unnamed beneficiaries. ~~Any such~~ The fiduciary shall have power to vote as a member as if the membership were held absolutely, to open and to make additions to, and to withdraw ~~any such~~ the account in whole or in part. The withdrawal value of ~~such~~ the accounts, and dividends thereon, or other rights relating thereto may be paid or delivered, in whole or in part to ~~such~~ the fiduciary without regard to any notice to the contrary as long as ~~such~~ the fiduciary is living. The payment or delivery to ~~any such~~ the fiduciary or a receipt or acquittance signed by ~~any such~~ the fiduciary to whom ~~any such~~ payment or ~~any such~~ delivery of rights is made shall be a valid and sufficient release and discharge of ~~an~~ the institution for the payment or delivery so made. Whenever a person holding an account in a fiduciary capacity dies and no written notice of the revocation or termination of the fiduciary relationship ~~shall have~~ has been given to an institution and the institution has no notice of any other disposition of the beneficial estate, the withdrawal value of ~~such~~ the account and dividends ~~thereon~~ on the account, or other rights relating ~~thereto~~ to the account may, at the option of an institution, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries. Whenever an account ~~shall be~~ is opened by any person, describing ~~himself~~ the person in opening ~~such~~ the account as trustee for another, and no other or further notice of the existence and terms of a legal and valid trust ~~then such~~ than that description ~~shall have~~ has been given in writing to ~~such~~ the association, in the event of the death of the person so described as trustee, the withdrawal value of ~~such~~ the account or any part thereof, together with the dividends or interest ~~thereon~~ on the account, may be paid to the person for whom the account was thus stated to have been opened, and ~~such~~ the account and all additions ~~thereto~~ shall be the property of ~~such~~ that person. The payment or delivery to ~~any such beneficiary, beneficiaries or designated~~ that person, or a receipt or acquittance signed by ~~such beneficiary, beneficiaries or designated~~ that person for any ~~such~~ payment or delivery shall be a valid and sufficient release and discharge of ~~an~~ the institution for the payment or delivery so made. ~~No~~ An institution paying ~~any such~~ a fiduciary or beneficiary in accordance with the provisions of this subsection shall ~~thereby~~ not be liable as a result of that action for any estate, inheritance or succession taxes which may be due this state.

8. PAY ON DEATH ACCOUNTS. Any association and any federal savings and loan association may issue ~~share~~ savings accounts in the name of one or more persons with the provision that upon the death of the owner or owners ~~thereof~~ the proceeds ~~thereof~~ shall be the property of the person or persons designated by the owner or owners and shown by the record of ~~such~~ the association, but ~~such~~ the proceeds shall be subject to the debts of the decedent and the payment of Iowa inheritance tax, if any, provided, however, that six months after the date of the death of the owner the receipt or acquittance of the person so designated shall be a valid and sufficient release and discharge of ~~such~~ the association for the delivery of ~~such share~~ the savings account or the payment so made.

9. POWERS OF ATTORNEY ~~OR SHARE~~ ON SAVINGS ACCOUNT. Any association or federal savings and loan association may continue to recognize the authority of an attorney authorized in writing to manage or to make withdrawals either in whole or in part from ~~the share~~ a savings account ~~of a member~~ until it receives written notice or is on clear actual notice of the revocation of ~~his~~ the attorney's authority. For the purpose of this subsection, written notice of the death or adjudication of incompetency of ~~such member shall constitute~~ the savings account holder constitutes written notice of revocation of the authority of ~~his~~ the attorney. ~~No such~~ An institution shall not be liable for damages, penalty or tax by reason of any payment made pursuant to this subsection.

10. ~~SHARE~~ SAVINGS ACCOUNTS AS LEGAL INVESTMENTS. Administrators, executors, custodians, guardians, trustees, and other fiduciaries of every kind and nature, insurance companies, business and manufacturing companies, banks, credit unions and all other

types of financial institutions, charitable, educational, eleemosynary and public corporations and organizations, and municipalities and other public corporations and bodies, and public officials ~~hereby~~ are ~~specifically~~ authorized ~~and empowered~~ to invest funds held by them~~,~~ without any order of any court in share or deposit accounts or time certificates of deposit of insured savings associations which are under state supervision, or federal savings and loan associations organized under the laws of the United States and under federal supervision, and ~~such~~ the investment shall be deemed and held to be a legal ~~investments for such~~ investment of the funds.

Whenever, under the laws of this state or otherwise, a deposit of securities is required for any purpose, the securities made legal investments by this ~~section~~ subsection shall be acceptable for ~~such deposits~~ that deposit, and whenever, under the laws of this state or otherwise, a bond is required with security ~~such~~ the bond may be furnished, and the securities made legal investments by this ~~section~~ subsection in the amount of ~~such~~ the bond, when deposited ~~therewith~~, shall be acceptable as security without other security.

The provisions of this ~~section~~ subsection are supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, corporations, organizations, and officials referred to in this ~~section~~ subsection and the laws relating to the deposit of securities and the making and filing of bonds for any purpose.

11. ~~NEGOTIABLE ORDER OF WITHDRAWAL~~ NOW ACCOUNTS. ~~Associations may offer accounts under which account owners may order or authorize the withdrawal of a specified amount of the account by means of cash or a negotiable or nonnegotiable check or similar instrument payable to the account owner or to third parties or their order for the benefit of the account owner. However, this authority is available only for periods of time when federally chartered savings and loan associations operating in this state are granted similar authority, and the state authorization is subject to the rights and limitations imposed upon the federally chartered associations for this type of activity.~~ An association may offer savings accounts under which the owner of the account may order or authorize the withdrawal of part or all of the savings account by means of a negotiable or nonnegotiable draft or similar instrument payable to the owner or to third parties or their order.

12. DEPOSIT ACCOUNTS. A stock association or mutual association may receive money for deposit.

13. SHARE ACCOUNTS. A mutual association may receive money to be held in withdrawable share accounts and time share accounts.

14. TERMS AND CONDITIONS. An association shall establish the interest rate, method of computing interest, service charges, and other terms and conditions of each type of savings account it will accept. These terms and conditions shall be consistent with this chapter, and shall be applied equally to all similar accounts. An association shall furnish a copy of the terms and conditions of a savings account upon request. An association shall give reasonable notice of any change in the terms and conditions to the owners of each type of savings account which is changed, provided that notice of changes in interest rates or methods of computing interest may be provided by posting a conspicuous notice of the change in each of the association's offices. The terms and conditions of an account established for a specified time period cannot be changed during that time period except with mutual consent or according to the original terms.

15. INDUCEMENTS. An association may give inducements for the opening of a savings account or the making of additions to a savings account.

Sec. 11. Section 534.12, subsection 1, Code 1981, is amended to read as follows:

1. VOTING. Each member shall have one vote for each one hundred dollars of net equity above share loans in his or her share account owned and held by him or her at any election, and

may vote the same by proxy, but no person shall vote more than ten percent of the savings liability at the time of said election excepting that proxies held and voted by an individual member or a proxy committee shall not be included in said ten percent limitation. Every proxy shall be in writing and shall, unless otherwise specified in the proxy, continue in force for eleven months from the date thereof, provided that upon receipt of a written request for a new proxy solicitation that is signed by at least two percent of the members of the association, all proxies executed prior to the date of receipt of the written request shall be void upon the expiration of sixty days following the date of receipt of the written request. No proxies shall be voted at any meeting unless such proxies have been on file with the secretary of the association for verification at least five days before the date of the meeting. Anyone depositing or transferring savings as collateral security shall be deemed the owner of such share account within the meaning of this section. Notice of the regular annual meeting of members of an association shall be given by publishing said notice in a newspaper of general circulation in the county in which the office of said association is located at least thirty days before the date set for said annual meeting. Proxies may be revoked by any member upon written notice to the secretary of an association; by execution of a written proxy to another agent; or by personal attendance by the member at the members' meetings. Each member as defined by section 534.2, subsection 8, shall, regardless of shares, be entitled to at least one vote at any members' meeting.

Sec. 12. Section 534.12, subsections 3 and 4, Code 1981, are amended to read as follows:

3. ASSOCIATION LIEN ON ~~SHARE~~ SAVINGS ACCOUNTS. Every ~~such~~ association shall at all times have a lien upon the savings accounts of a ~~member~~ savings account holder as security for repayment of money loaned ~~him~~ to the person and as security for ~~his~~ other indebtedness of the person to the association and ~~such~~ the lien shall attach and continue without assignment or pledge to or possession by the association of any evidence of ~~such~~ ownership. ~~Such~~ The lien may be enforced to satisfy any past due indebtedness by charging ~~such~~ the indebtedness to the debtor's ~~share~~ savings account.

4. REDEMPTION. At any time funds are on hand for the purpose the association shall have the right to redeem by lot or otherwise, as the board of directors may determine, all or any part of any of its ~~share account~~ savings accounts on a dividend date by giving thirty days' notice by registered mail addressed to the account holders at their last addresses recorded on the books of the association. ~~No~~ An association shall not redeem any of its share accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file more than thirty days and have not been reached for payment. The redemption price of ~~share accounts redeemed~~ a savings account shall be the full value of the account redeemed, as determined by the board of directors, but in no event shall the redemption value be less than the withdrawal value. If the ~~aforesaid~~ notice of redemption ~~shall have been duly~~ has been given, and if on or before the redemption date the funds necessary for ~~such~~ the redemption ~~shall~~ have been set aside so as to be and continue to be available ~~therefor~~ for redemptions, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and all rights with respect to ~~such~~ those accounts shall ~~forthwith, after such redemption date,~~ terminate as of the redemption date, ~~except~~ subject only to the right of the account holder of record to receive the redemption value without interest. All ~~share~~ savings accounts which have been validly called for redemption must be tendered for payment within ten years from the date of redemption designated in the redemption notice, ~~otherwise~~ or they shall be canceled and forfeited for the use of the school fund of the county in which the association has its principal place of business and all claims of ~~such~~ the account holders against the association shall be barred forever. Redemption shall not be made, ~~however,~~ of ~~such share~~ any savings accounts which are held by a ~~member director~~ person who is a director and which are necessary to qualify ~~his acting~~ the person to act as director.

Sec. 13. Section 534.19, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. DIVIDENDS ON CAPITAL STOCK. A stock association may declare and pay dividends on capital stock in cash or property out of the unreserved and unrestricted earned surplus of the stock association, or in its own shares, except when the stock association is in an impaired condition or when the payment thereof would cause the stock association to be in an impaired condition. A split-up or division of the issued shares of capital stock into a greater number of shares without increasing the stated capital of the stock association is authorized, and shall not be construed to be a dividend within the meaning of this subsection.

NEW SUBSECTION. TAX AND LOAN ACCOUNTS. To act as depository for receipt of payments of federal or state taxes and loan funds from persons other than the state or subdivisions, agencies or instrumentalities of the state, and satisfy any federal or state statutory or regulatory requirements in connection therewith, including pledging of assets as collateral, payment of earnings at prescribed rates and, notwithstanding any other provision of this chapter, issuing such accounts subject to the right of immediate withdrawal.

NEW SUBSECTION. LEASING OF PERSONAL PROPERTY. To acquire, upon the specific request of and for the use of a customer, and lease, personal property pursuant to a binding arrangement for the leasing of the property to the customer upon terms requiring payment to the association, during the minimum period of the lease, of rentals which in the aggregate, when added to the estimated tax benefits to the association resulting from the ownership of the leased property plus the estimated residual market value of the leased property at the expiration of the initial term of the lease, will be at least equal to the total expenditures by the association for, and in connection with, the acquisition, ownership, maintenance, and protection of the property. A lease made under authority of this section shall have the prior approval of the supervisor or be made pursuant to personal property lease guidelines approved by the supervisor for use by the lessor association or pursuant to a personal property lease guideline rule of general applicability for use by all associations.

Sec. 14. Section 534.19, subsection 15, Code 1981, is amended to read as follows:

15. SERVICE CORPORATIONS. Any association ~~shall have the power to~~ may organize and own, alone or with any other similar corporation, a service corporation for the mutual good of ~~said corporations~~ the associations. ~~An association may invest in capital stock, obligations, or other securities of service corporations in an amount not to exceed five percent of the association's assets.~~ The supervisor of state chartered associations shall have the right to examine ~~said~~ service corporations.

Sec. 15. Section 534.17, subsection 1, Code 1981, is amended to read as follows:

1. ~~In securities without limit,~~ An association may invest without limit, except as expressly stated, in the following securities: (1) in obligations of, or obligations which are guaranteed as to principal and interest by, the United States or this state; (2) in stock of a federal home loan bank of which it is eligible to be a member, and in any obligation or consolidated obligations of any federal home loan bank or banks; (3) in stock or obligations of the federal savings and loan insurance corporation; (4) in stock, ~~or~~ obligations, or other instruments of ~~a~~ the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, or any successor ~~or successors thereto~~; (5) in demand, time or savings deposits, in bankers acceptances with any bank or trust company the deposits of which are insured by the federal deposit insurance corporation; (6) in stock or obligations of any corporation or agency of the United States or this state, or in deposits therewith to the extent that such corporation or agency assists in furthering or facilitating the association's purposes or powers; (7) in ~~share~~ savings accounts of any association operating under the provisions of this chapter and of any federal savings and loan association; (8) in bonds, notes, or other evidences

of indebtedness which are a general obligation of any city, village, county, school district, or other municipal or political subdivision so long as the total investment in such corporation does not exceed five percent of the assets of ~~said~~ the association. ~~Any of said~~, except that any of these investments which are securities or obligations which are evidence of first mortgage liens on real estate are exempt from the ~~above~~ five percent limitation; (9) in bonds secured by an interest in real estate; (10) in capital stock, obligations, or other securities of service corporations, provided that the aggregate investment in service corporations shall not exceed five percent of the assets of the association at any time prior to July 1, 1983, or six percent of assets on or after July 1, 1983 and prior to July 1, 1984, or seven percent of assets on or after July 1, 1984, and prior to July 1, 1985, or eight percent of assets on or after July 1, 1985 and prior to July 1, 1986, or nine percent of assets on or after July 1, 1986 and prior to July 1, 1987, or ten percent of assets at any time on or after July 1, 1987; and (11) in an open end management investment company registered under the federal Investment Company Act of 1940, the portfolio of which is restricted to investments in which an association may invest.

Sec. 16. Section 534.23, subsection 1, Code 1981, is amended to read as follows:

1. SCHOOL SAVINGS. An association ~~shall have power to~~ may contract with the proper authorities of any public or nonpublic elementary or secondary school or other institution of higher learning, or any public or charitable institution caring for minors, for the participation and implementation by the association in any school or institutional thrift or savings plan, and it may accept ~~share~~ savings accounts at ~~such a~~ the school or institution, either by its own collector or by any representative of the school or institution which becomes the agent of the association for ~~such~~ that purpose.

Sec. 17. Section 534.41, subsection 2, unnumbered paragraph 1, Code 1981, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The supervisor has general supervision over all supervised organizations.

Sec. 18. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. GENERAL LENDING POWERS. An association may, subject to any applicable restrictions under this chapter and rules adopted by the supervisor, loan money, extend credit, discount or purchase the vendor's interest in real estate contracts, and discount or purchase other evidences of indebtedness and agreements for the payment of money.

Sec. 19. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. LIMITATION ON POWERS.

1. A service corporation shall not make a commercial loan or accept a commercial NOW account except during those periods of time, if any, when federal service corporations are granted and can exercise similar authority under a federal statute or regulation, and the state authorization is subject to the conditions and limitations imposed upon federal service corporations for a similar activity. Except as provided in this section, an association shall not make a commercial loan or accept a commercial NOW account except during those periods of time, if any, when federal associations are granted and can exercise similar authority under federal statute or regulation, and the state authorization is subject to the conditions and limitations imposed upon federal associations for similar activity. However, an association may make commercial loans and accept commercial NOW accounts under the restrictions contained in subsections 2 and 3 without regard to the authority granted federal associations.

2. As an annual average, based on monthly computations, an association may hold not more than one percent of its assets in commercial loans, provided that this limitation shall increase to two percent of assets on July 1, 1983, to three percent of assets on July 1, 1984, to four percent of assets on July 1, 1985, and to five percent of assets on July 1, 1986, but further provided that commencing on the effective date of any federal statute or federal rule or regulation

removing all limitations or controls on the rates of interest that may be paid by banks and savings and loan associations on savings accounts, an association may hold not more than ten percent of its assets in commercial loans.

3. An association may accept a commercial NOW account only from a person who at the time the account is opened has a commercial loan from the association.

4. In addition to other conditions or restrictions, an association that operates one or more branch offices shall not make a commercial loan or accept a commercial NOW account unless all of those office locations are at places which a bank would be authorized under section 524.1202 to apply for and have approved as bank offices, provided that this subsection does not require an association to close any office if the total number of the association's offices does not exceed the number of offices in existence and operating on the effective date of this Act plus the number of offices in existence and operating on the effective date of this Act of any other state association or federal association with which the association merges on or after the effective date of this Act. This subsection does not apply to an association that makes only those commercial loans and that accepts only those commercial NOW accounts which the association could make or accept if it were a federal association, subject to any provisions, conditions or limitations relating to or imposed upon federal associations in connection with the activity.

5. For purposes of this section a "commercial loan" is a loan to a person borrowing money for a business or agricultural purpose. As used in this paragraph, "agricultural purpose" means as defined in section 535.13; and "business purpose" includes but is not limited to a commercial, service or industrial enterprise carried on for profit, and any investment activity. However "commercial loan" does not include a loan secured by an interest in real estate for the purpose of financing the acquisition of real estate or the construction of improvements on real estate. In determining which loans are "commercial loans" the rules of construction stated in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 177, section 1, subsection 1, paragraph f, subparagraphs (1), (2), (3) and (4) shall apply.

6. For purposes of this section a "commercial NOW account" is a NOW account on which an association was prohibited from paying interest on the effective date of this Act by federal statutes or regulations. As used in this paragraph a "NOW account" is a savings account authorized by section 534.11, subsection 11, as amended by this Act.

7. For purposes of this section a lease of personal property shall be treated as a commercial loan if a loan to the lessee to acquire the property would have been a commercial loan.

Sec. 20. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. SOUND LENDING STANDARDS. An association shall not make a loan unless it first has determined that the loan is authorized by this chapter, and that the type, amount, purpose, and repayment provisions of the loan in relation to the borrower's resources, credit standing and any collateral securing repayment of the loan support the reasonable belief that the loan will be financially sound and will be repaid according to its terms.

Sec. 21. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. COMMITMENT TO RESIDENTIAL LOANS.

1. COMMITMENT. As an annual average, based on monthly computations, an association shall hold at least sixty percent of its assets in the following types of assets:

a. Loans secured by first liens or first claims on residential real estate, participation interests in groups of loans secured by first liens or first claims on residential real estate, securities that are secured by groups of loans secured by first liens or first claims on residential real estate, or property improvement loans for the making of improvements upon residential real property, or a combination of these.

b. Cash.

c. Obligations of the United States or of a state or political subdivision of a state, and stock or obligations of a corporation which is an instrumentality of the United States or of a state or political subdivision of a state, but not including obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954.

d. Certificates of deposit in, or obligations of, a corporation organized under a state law which specifically authorizes such corporation to insure the deposits or share accounts of member associations.

e. Loans secured by a deposit or share of a member.

f. Property acquired through the liquidation of default loans.

g. Property used by the association in the conduct of its business under this chapter.

2. FAILURE TO MEET COMMITMENT. If, upon examination, the supervisor determines that an association has failed to meet the requirements of subsection 1 for any two of its preceding five fiscal years, the association shall be so notified in writing, with a copy of the notice to the superintendent of banking, and the association shall within ninety days following receipt of the notice do one of the following:

a. Establish to the satisfaction of the supervisor that at least sixty percent of the current amount of its assets are held in the types of assets referred to in subsection 1. If the association subsequently fails to meet the requirements of subsection 1 during any one of the three fiscal years following the fiscal year in which the second violation in five years occurred, then the association shall within ninety days following receipt of a notice of this violation take one of the actions specified in paragraph b, c, d, or e.

b. File a plan of merger to merge with another state association whose assets are such that the two associations would have met the requirements of subsection 1 on a consolidated basis during at least four of the five preceding years.

c. File a plan of merger with a federal association or a bank under which the resulting organization is not a state association.

d. File a plan of conversion to become a federal association or a bank.

e. File a plan of conversion that provides both for conversion to a stock association and for the immediate conversion of the resulting stock association to a bank.

3. FAILURE TO RESOLVE PROBLEM. If an association fails to take one of the actions required by subsection 2, or fails to complete the plan of merger or conversion within nine months after receiving the notice specified in subsection 2, the supervisor shall appoint a conservator to operate the association in conformance with subsection 1 or a receiver to liquidate the association.

Sec. 22. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. REAL ESTATE LOANS. An association may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the supervisor under chapter 17A. These rules shall contain provisions as necessary to insure the safety and soundness of these loans, and to insure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

Sec. 23. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. REQUIRED REAL ESTATE LOAN PRACTICES. Real estate loans must meet the following requirements:

1. APPRAISAL. A qualified person shall conduct an inspection of the property securing the loan and submit a signed appraisal of the market value of that property, provided that an appraisal is only required where the loan is secured by a first lien.

2. NOTE. A note shall be signed by the borrower and delivered to the association.

3. LIEN. The loan shall be secured by a mortgage, deed of trust or similar instrument constituting a lien or claim upon real estate. Such instrument shall provide for the full protection of the association in the event of default.

4. PAYMENT TERMS. The loan shall provide for repayment upon those terms set forth in the note signed by the borrower.

5. LOAN SETTLEMENT STATEMENT. The borrower shall receive a statement setting forth in detail the charges and fees the borrower has paid or is obligated to pay in connection with the loan.

6. BALLOON PAYMENTS. An association shall mail to the borrower an offer to refinance a balloon payment under a loan at least twenty days prior to the balloon payment date if at that time no payments under the loan are delinquent. Such offer shall be at an interest rate no greater than one percent per annum above the index rate, monthly payments no greater than those necessary to fully amortize the amount of the balloon payment plus interest over a term ending thirty years after the first loan to the borrower secured by the real estate securing the loan to be refinanced, and a term of at least one year before the next balloon payment. Where the balloon payment is due one month after the preceding monthly payment date, the association may require the borrower to make a payment equal to the preceding monthly payment on the balloon payment date if the first payment under the note to refinance the balloon note is one month after the balloon payment date. The association may offer repayment plans to refinance a balloon payment in addition to the plan required by this subsection. For purposes of this subsection the term "loan" means as defined in section 535.8, subsection 1; the term "balloon payment" means a payment which is more than three times as big as the mean average of the payments which precede it; and the term "index rate" means the national average mortgage contract rate for major lenders on the purchase of previously-occupied homes which is most recently published in final form by the federal home loan bank board one month prior to the date on which the balloon payment is due.

Sec. 24. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. AUTHORIZED REAL ESTATE LOAN PRACTICES. An association may do any of the following with respect to a real estate loan, and any contract provision authorized by this section shall be enforceable:

1. PREPAYMENT. Except as prohibited by section 535.9, an association may include in the loan documents signed by the borrower a provision imposing a penalty in the event of prepayments as defined in the document.

2. PROTECTIVE DISBURSEMENTS. An association may pay taxes, assessments, ground rents, insurance premiums and similar charges with respect to real estate securing a loan. An association may add these disbursements to the unpaid principal balance of the loan, in which event the disbursements shall be secured to the same extent as the principal balance of the loan.

3. PROTECTIVE PAYMENTS. An association may include in the loan documents signed by the borrower a provision requiring the borrower to pay the association each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the association in order to better secure the loan. The association shall be deemed to be acting in a fiduciary capacity with respect to these funds. An association receiving funds pursuant to an escrow agreement

executed on or after the effective date of this Act in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily basis, at the rate the association pays to members depositing funds in ordinary savings accounts. An association which maintains an escrow account in connection with any real estate loan, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

4. ADDITIONAL PROVISIONS. An association may include in the loan documents signed by the borrower any other provision not inconsistent with this chapter.

Sec. 25. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. LINE OF CREDIT ARRANGEMENTS. An association may commit its assets to lines of credit pursuant to credit arrangements, including but not limited to agreements with credit and debit card holders and with other credit or debit card issuers. An association may become a member or stockholder of or become otherwise affiliated with, any credit or debit card corporation, association, or other issuer.

Sec. 26. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. SUCCESSORS IN INTEREST. An association may deal directly with any person who has an interest in property which secures a loan by the association regarding the loan or the security interest without notice to any person who is obligated to repay the loan, and an association may forebear to sue or may extend time for payment of or otherwise modify the terms of the loan, without discharging or in any way affecting the liability of any person obligated to repay the loan.

Sec. 27. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. INVESTMENT IN AND BY BANKS.

1. INVESTMENT IN BANKS. A holding company, association, or service corporation may invest in the capital stock, obligations, or other securities of a bank with the prior approval of the supervisor.

2. INVESTMENT BY BANKS. Notwithstanding sections 524.802 and 524.901, subsection 3, a bank holding company, bank, or bank service corporation may, with the prior approval of the superintendent, invest in the capital stock, obligations or other securities of a state association.

The superintendent shall not approve an investment under this subsection if upon making the investment the entity making the investment directly or indirectly would own or control more than twenty-five percent of the voting shares of a savings and loan association or would have the power to control in any manner the election of a majority of the directors of a savings and loan association, unless the superintendent first determines either that the association in which the investment is to be made has only those office locations which a bank would be authorized under section 524.1202 to apply for and have approved on the effective date of the proposed investment, or that all nonconforming office locations were in existence and operating on the effective date of this Act. If such an investment is approved by the superintendent, the association so owned or controlled shall not subsequently establish any additional office locations except one which a bank would be authorized under section 524.1202 to apply for and have approved on the date which the proposed office location would commence operations.

3. CONTINGENCIES. An association or service corporation may make an investment under subsection 1 only if at the time of the investment either an insured bank or a bank service corporation owned by one or more insured banks would be permitted to make an investment under substantially the same circumstances in an insured state association under all applicable laws and regulations of the United States. A bank or bank service corporation may

make an investment under subsection 2 only if at the time of the investment either an insured state association or a service corporation owned by one or more insured associations would be permitted to make an investment under substantially the same circumstances in an insured bank under all applicable laws and regulations of the United States. The ability of an organization to merge with another organization is not relevant in determining whether an organization is permitted to invest in another organization.

4. No bank shall directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of any savings and loan association, or the power to control in any manner the election of a majority of the directors of any savings and loan association, if upon such acquisition the associations so owned or controlled by the bank would have, in the aggregate, more than eight percent of the total deposits, both time and demand, of all associations in this state, as determined by the superintendent on the basis of the most recent reports of the associations in the state to their supervisory authorities which are available at the time of the acquisition.

5. DEFINITIONS. For purposes of this section an "insured bank" is a bank whose deposits are insured in part by the federal deposit insurance corporation; a "bank service corporation" is as defined by, and in accordance with, the laws of the United States, and the "superintendent" is the person appointed pursuant to section 524.201.

6. FINDINGS REQUIRED. The supervisor shall not grant an approval under subsection 1, and the superintendent shall not grant an approval under subsection 2 except after making one of the two following findings:

a. Based upon a preponderance of the evidence presented, the proposed investment will not have the immediate effect of significantly reducing competition between depository financial institutions located in the same community as the institution whose shares would be acquired.

b. Based upon a preponderance of the evidence presented, the proposed investment would have the anticompetitive effect specified in paragraph a of this subsection, but that other factors, to be specifically cited, outweigh the anticompetitive effect so that there would be a net public benefit as a result of the investment.

7. COMPETITION PRESERVED. The subsequent liquidation of a bank or state association whose shares are required under this section shall not prevent the subsequent incorporation of another bank in the same community, and the superintendent of banking shall not find the liquidation to be grounds for disapproving the incorporation of another bank in the same community under section 524.305; and shall not prevent the subsequent incorporation of another association in the same community, and the supervisor shall not find the liquidation to be grounds for disapproving the incorporation of another association in the same community under this chapter.

Sec. 28. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. ACTIONS TO AVOID LOSS. An association may invest its funds, operate a business, manage or deal in property, or take any other action, over a reasonable period of time not exceeding one year, to avoid or reduce the loss on a loan or investment made or an obligation created in good faith, even though such action is not otherwise authorized by this chapter.

Sec. 29. Chapter 534, Code 1981, is amended by adding the following new sections:

NEW SECTION. ARTICLES OF INCORPORATION.

1. ORIGINAL ARTICLES. The original articles of incorporation of an association shall set forth:

a. The name of the association.

b. Whether the association is organized as a mutual association or a stock association.

c. That the association will operate under this chapter.

d. The period of duration if for a limited period, but in the absence of any statement in the articles an association shall have perpetual duration.

e. The officer or officers authorized to sign instruments pertaining to real estate.

f. Whether or not the association will have a corporate seal, and whether such seal must be affixed to instruments pertaining to real estate.

g. If a stock association, the information specified in section 496A.49, subsections 4, 5, 6, and 7.

h. Any other provision not inconsistent with this chapter.

i. The person to whom the certificate of incorporation should be mailed by the secretary of state after filing.

j. The address of its registered office including street and number, if any, the name of the county in which the registered office is located, and the name of its registered agent or agents at such address.

k. The name and address of each incorporator.

l. The name and address and initial term of office of each member of the initial board of directors.

2. It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

3. RESTATED ARTICLES. Restated articles of incorporation shall set forth the information specified in paragraphs a, b, c, d, e, f, g, h, i, and j of subsection 1.

4. AMENDMENT PROCEDURE. The procedure for amending articles of incorporation or adopting restated articles for mutual associations is that specified in section 504A.35, and for stock associations it is that specified in sections 496A.56 and 496A.57.

5. EFFECTIVE DATE. Original articles, amendments, and restatements are effective on the date they are filed with the secretary of state, or on such later effective date as is stated therein. The secretary of state shall not accept any of these documents for filing unless it has been approved by the supervisor.

NEW SECTION. BYLAWS.

1. GENERAL PROVISIONS. The initial bylaws of an association shall be adopted by its board of directors. The power to alter, amend, or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation. The bylaws may contain any provisions for the regulation and management of the affairs of the association not inconsistent with the law or the articles. If the articles of a stock association so provide, the bylaws may contain provisions restricting the transfer of shares.

2. EFFECTIVE DATE. Amendments to bylaws or restatements of bylaws are effective on the date they are adopted if they have been preapproved by the supervisor or on the date they are approved by the supervisor if they were not preapproved, provided that the amendment or restatement is effective on a later effective date if so provided therein.

NEW SECTION. MEETINGS OF STOCKHOLDERS. Sections 496A.27, 496A.28, 496A.29, 496A.30, 496A.31, 496A.32, and 496A.33 apply to stock associations.

NEW SECTION. DIRECTORS. The business of the association shall be directed by a board of directors of not less than five nor more than twenty-five adult individuals elected by ballot from among the members or stockholders by a plurality of the votes of the members or stockholders present or voting by proxy. If authorized by vote of the members or stockholders, the directors may elect all directors. At all times at least two-thirds of the directors must be bona fide residents of this state.

NEW SECTION. INCORPORATING AN ASSOCIATION.

1. PLAN OF INCORPORATION. One or more persons may petition for approval of a plan of incorporation for an association by forwarding to the supervisor the following:

a. The proposed original articles of incorporation.

b. The proposed original bylaws.

c. An application for approval of each proposed office.

d. Other information the supervisor requires.

2. PROCEDURES. If the supervisor approves the plan of incorporation, the supervisor shall note the approval on the original articles, and the original articles shall be filed with the secretary of state.

3. CERTIFICATE OF OPERATION. A corporation shall not operate as an association under this chapter until it has received a certificate of operation from the supervisor. The supervisor shall not issue a certificate of operation to the association until approved articles and bylaws have been adopted, the supervisor has received satisfactory proof that the corporation will be an insured association before receiving any money in savings accounts, and the interests of the public and members have been adequately protected.

NEW SECTION. TEMPORARY MORATORIUM. An association shall not be incorporated under this chapter as a stock association prior to the expiration of three years after the effective date of this Act, except that a state or federal mutual association may be converted to a state stock association under section 30 of this Act at any time on or after the effective date of this Act.

NEW SECTION. STOCK ASSOCIATION CAPITALIZATION.

1. IN GENERAL. Sections 496A.14, 496A.15, 496A.16, 496A.17, 496A.18, 496A.19, 496A.21, 496A.22, 496A.23, 496A.24, and 496A.25 apply to stock associations.

2. PERMANENT CAPITAL. Except as provided in this chapter, the total of the par values of all outstanding shares of voting common capital stock shall be permanent capital of the stock association and shall not be retired until final liquidation of the stock association. A stock association shall not reduce its outstanding voting common capital stock without first obtaining the consent of the supervisor. Consent shall be withheld if the reduction will cause the par value of outstanding voting common capital stock to be less than the minimum required by rules adopted by the supervisor.

3. CAPITAL STOCK AS SECURITY. A stock association shall not make a loan secured by the pledge of its capital stock.

Sec. 30. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. CONVERSIONS.

1. TYPES AUTHORIZED. The following types of conversions are authorized:

a. Mutual association to stock association.

b. Stock association to mutual association.

c. Mutual association or stock association to federal mutual association or federal stock association.

d. Federal mutual association or federal stock association to mutual association or stock association.

e. Stock association to a bank chartered under chapter 524.

2. INSURANCE. The organization must be either an insured association, a federal association, or an insured bank after any conversion.

3. PLAN OF CONVERSION. The board of directors shall approve a plan of conversion by a majority vote of all directors then serving. The plan shall include the following:

a. The proposed restated articles of incorporation.

b. The proposed restated bylaws.

c. The effect of the conversion on each type of member or each class of stockholders.

d. Other information the supervisor requires.

e. If the conversion is to a bank, information required by the superintendent of banking.

4. SUPERVISOR'S APPROVAL. The plan of conversion shall be submitted to the supervisor for approval. The supervisor shall reject the plan based on any of the following determinations:

a. The plan is inconsistent with applicable statutes or regulations.

b. The plan does not contain all required information.

c. The plan is inequitable to a class of members or shareholders.

The supervisor shall notify the organization which submitted the plan of the supervisor's decision, and the reasons for rejection if the plan is rejected.

5. SUPERINTENDENT'S APPROVAL. The plan of conversion shall be submitted to the superintendent of banking for approval if the conversion is to a bank. The superintendent shall reject the plan based on any of the following determinations:

a. The plan is inconsistent with applicable statutes or regulations.

b. The plan does not contain all required information.

c. The character and fitness of the members of the initial board of directors is not such as to command the confidence of the community and to warrant the belief that the organization's business will be honestly and efficiently conducted.

d. The capital structure of the organization is not adequate in relation to its anticipated business.

e. The organization will have sufficient personnel with adequate knowledge and experience to conduct its business and administer any fiduciary accounts which it proposes to handle.

f. The plan does not provide for the closing or sale of all of the offices which must be discontinued in order for the organization to have only those home and branch offices which a bank is allowed to have under chapter 524.

The superintendent shall notify the organization which submitted the plan of the superintendent's decision, and the reasons for rejection if the plan is rejected. The organization may amend and resubmit the plan in response to a notification of rejection.

6. MEMBER OR STOCKHOLDER APPROVAL. The plan of conversion must be approved at an annual meeting of members or stockholders, or at a special meeting called to consider the plan, by a majority vote of the members represented in person or by proxy if a mutual association or federal mutual association, or a majority vote of each class of voting stock represented in person or by proxy if a stock association or federal stock association.

If the proposed conversion is the conversion of a mutual association to a stock association, the board of directors shall cause written notice of the date, time and purpose of the meeting at which the members will be asked to vote on the proposal to be mailed by first class mail, postage prepaid, to each member of the association not less than thirty days prior to the date of the meeting, and the board shall cause a copy of this notice to be posted in a conspicuous location in each of the association's offices from the date of mailing until the date of the meeting. The notice to be mailed to members and posted also shall give notice, in a form and manner to be prescribed by rule of the supervisor, the rights of a member to have access to and communicate with other members as provided in section 534.5, subsection 2 and the procedures that are to be followed under that provision. The mailed notice may be included in an envelope containing a periodic statement of account to the member. The supervisor may require that the date for the meeting of members be postponed to a date certain, not more than thirty days after the date originally prescribed, if the supervisor determines that such additional time is necessary to enable members who have requested to communicate with other members under section 534.5, subsection 2, to properly exercise that right.

If the proposed conversion is the conversion of a stock association to any other type of entity, the board of directors shall cause written notice of the proposed conversion and the earliest date when the proposed conversion might become effective to be posted in a conspicuous location in each of the association's offices commencing thirty days prior to the date of the shareholder's meeting at which the proposal will be voted upon and until thirty days after that date.

If the plan of conversion is approved, a copy of the minutes of the meeting, certified and acknowledged by the secretary or assistant secretary, shall be filed with the supervisor.

7. CONVERSION TO ASSOCIATION. If a state association results from the plan of conversion, the supervisor shall issue a certificate of incorporation when all of the following have occurred:

a. The supervisor has received adequate assurance that the association will be an insured association upon issuance of the certificate of incorporation.

b. The supervisor has approved the plan of conversion.

c. The supervisor has received the certified minutes of approval under subsection 6.

The proposed articles of incorporation and bylaws as contained in the plan of conversion shall become effective upon the issuance of the certificate of incorporation.

8. CONVERSION TO FEDERAL ASSOCIATION. If a federal association results from the plan of conversion, the association shall cease to be an association and shall no longer be subject to the supervision and control of the supervisor when all of the following have occurred:

a. The supervisor has received a copy of the charter issued to a converting association by the federal home loan bank board or a certificate showing the organization of such association as a federal savings and loan association, certified by the secretary or assistant secretary of the federal home loan bank board.

b. The supervisor has approved the plan of conversion.

c. The supervisor has received the certified minutes of approval under subsection 6.

9. CONVERSION TO A BANK. If a bank results from the plan of conversion, the association shall cease to be an association and shall no longer be subject to the supervision and control of the supervisor when all of the following have occurred:

a. The supervisor has received from the superintendent of banking a certificate showing that the organization is chartered as a bank.

b. The supervisor has approved the plan of conversion.

c. The supervisor has received the certified minutes of approval under subsection 6.

10. CERTIFICATION. The supervisor shall prepare a certificate of conversion upon the occurrence of all of the events stated in subsection 7, 8, or 9. This certificate shall include the name of the corporation which adopted the plan of conversion, the name of the corporation after the conversion, and the effective date of conversion. The original certificate shall be filed with the secretary of state. The supervisor shall provide a certified copy of the certificate to any person upon payment of a five dollar fee. A certified copy of this certificate shall be sufficient proof of that conversion for purposes of establishing the liability for debts or the ownership of assets as provided in section 31, subsections 2 and 3 of this Act.

11. COMPETITION PRESERVED. A conversion of an association to a bank under this section shall not prevent the subsequent incorporation of another bank in the same community, and the superintendent of banking shall not find the existence of the bank resulting from the conversion to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, subsection 1, paragraph b or c. A conversion of an association to a bank under this section shall not prevent the subsequent incorporation of another association in the same community, and the supervisor shall not find the existence of the bank resulting from the conversion to be grounds for disapproving the incorporation of another association in the same community under this chapter.

Sec. 31. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. EFFECTS OF CONVERSION.

1. CONTINUATION. The legal existence of an entity shall not terminate as a result of a conversion under section 30 of this Act. The entity resulting from a conversion shall be a continuation of the same corporate entity which adopted the plan of conversion.

2. LIABILITIES. The corporation resulting from a conversion is liable for all obligations incurred by the corporation before, during or after the conversion.

3. ASSETS. All property of the corporation adopting a plan of conversion, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal or mixed, choses in action, and every other right and privilege immediately vests in the corporation resulting from the conversion, by act of law and without any other conveyance, act or deed, except to the extent an interest in property passes to another person under the explicit terms of the plan of conversion.

4. PENDING ACTIONS. Pending actions in any court or tribunal to which the corporation adopting a plan of conversion is a party shall not be abated or discontinued by reason of the conversion, but may be prosecuted in the same manner as if the conversion had not been made.

Sec. 32. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. MERGER.

1. MERGER DEFINED. As used in this section, the terms "merger" or "merge" means any plan by which the assets and liabilities of an entity are combined with those of one or more other entities, including transactions in which one of the corporate entities survives and transactions in which a new corporate entity is created.

2. TYPES AUTHORIZED. An association may merge only with one or more other state associations, federal associations, bank holding companies or banks.

3. PLAN OF MERGER. The board of directors of each merging entity shall approve an identical plan of merger by a majority vote of all directors then serving. The plan shall include the following:

a. The proposed name of the surviving organization.

b. The proposed articles of incorporation of the surviving organization.

c. The proposed bylaws of the surviving organization.

d. The effect of the merger on each type of member or each class of stockholders.

e. Other information required by the supervisor.

4. SUPERVISOR'S APPROVAL. The plan of merger shall be submitted to the supervisor for approval. The supervisor shall reject the plan based on any of the following determinations:

a. The plan is inconsistent with applicable statutes or regulations.

b. The plan does not contain all required information.

c. The plan is inequitable to a class of members or stockholders.

The supervisor shall notify the organizations which submitted the plan of the supervisor's decision, and the reasons for rejection if the plan is rejected.

5. SUPERINTENDENT'S APPROVAL. The plan of merger shall be submitted to the superintendent of banking for approval if the proposed merger is with or into a bank or bank holding company. The superintendent shall reject the plan based on any of the following determinations:

a. The plan is inconsistent with applicable statutes or regulations.

b. The plan does not contain all required information.

c. The capital structure of the resulting organization will not be adequate in relation to its anticipated business.

d. The plan does not provide for the closing or sale of all of the offices which must be discontinued in order for the resulting organization to have only those office locations which a resulting bank would be authorized under chapter 524 to apply for and have approved on the effective date of the merger if it had no bank office locations in operation on that date.

The superintendent shall notify the organization which submitted the plan of the superintendent's decision, and the reasons for rejection if the plan is rejected. The organization may amend and resubmit the plan in response to a notification of rejection.

6. MEMBER OR STOCKHOLDER APPROVAL. The plan of merger must be approved at an annual meeting of members or stockholders, or at a special meeting called to consider the plan, by a majority vote of the members represented in person or by proxy of each of the mutual associations or federal mutual associations included in the plan, or a majority vote of each class of voting stock represented in person or by proxy of each of the stock associations, federal stock associations, bank holding companies or banks included in the plan. If so approved, a copy of the minutes of the meeting, certified and acknowledged by the secretary or assistant secretary, shall be filed with the supervisor.

7. RECEIVERSHIP. If a receiver has been appointed for any association included in the plan of merger, the receiver shall act in place of the board of directors and the members or stockholders, and the plan must also be approved by the court by which the receiver was appointed.

8. CERTIFICATION. The supervisor shall prepare a certificate of merger upon the occurrence of all of the events stated in subsections 3, 4, 5, 6, and 7. This certificate shall include the name of the surviving association, federal association or bank and the effective date of the merger. The original certificate shall be filed with the secretary of state. The supervisor shall provide a certified copy of the certificate to any person upon payment of a five dollar fee. A certified copy of this certificate shall be sufficient proof of the merger for purposes of establishing the liability for debts or the ownership of assets as provided in section 33, subsections 1 and 2 of this Act. An association involved in a merger may transfer assets or receive assets under the plan of merger only after the certificate of merger has been issued by the supervisor.

9. COMPETITION PRESERVED. A merger under this section shall not prevent the subsequent incorporation of another bank in the community in which the merged association is located, and the superintendent of banking shall not find the merger to be grounds for disapproving the incorporation of another bank in the same community under section 524.305, subsection 1, paragraph b or c. A merger under this section shall not prevent the subsequent incorporation of another association in the community in which the merged association is located, and the supervisor shall not find the merger to be grounds for disapproving the incorporation of another association in the same community under this chapter.

Sec. 33. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. EFFECTS OF MERGER.

1. LIABILITIES. The association, federal association or bank resulting from a merger is liable for all obligations incurred by each of the associations, federal associations, bank holding companies or banks included in the merger before, during, or after the merger.

2. ASSETS. All property of each association, federal association, bank holding company or bank adopting a plan of merger, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, choses in action, and every other right and privilege immediately vests in the association, federal association, bank holding companies or bank resulting from the merger by act of law and without any other conveyance, act or deed, except to the extent an interest in property passed to another person under the explicit terms of the plan of merger.

3. PENDING ACTIONS. Pending actions in any court or tribunal to which any association, federal association, bank holding company or bank adopting a plan of merger is a party shall not be abated or discontinued by reason of the merger, but may be prosecuted in the same manner as if the merger had not been made.

Sec. 34. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. BULK TRANSFERS.

1. DEFINED. A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part in value of the loans, savings accounts, or real estate of an association or of one office of an association, or any combination of such loans, savings accounts and real estate.

2. APPROVAL. An association may be the transferor under a bulk transfer upon the prior written consent of the supervisor and upon the majority vote of members represented in person or by proxy if a mutual association, or a majority vote of each class of voting stock represented in person or by proxy if a stock association. An association may be the transferee under a bulk transfer upon the approval of its board of directors.

3. TRANSFERS TO BANKS. A bulk transfer by an association to a bank is void unless written consent to the transfer is obtained from the superintendent prior to the transfer.

Sec. 35. Chapter 534, Code 1981, is amended by adding the following new section:

NEW SECTION. LIMITATIONS. Nothing contained in this chapter shall be construed to authorize an association to merge with or be acquired wholly or in part by a foreign institution unless all applicable laws and regulations of the United States would specifically authorize a merger with or acquisition by a foreign institution. For purposes of this subsection the term "foreign institution" means a federal association whose home office is located in another state, a bank whose home office is located in another state, or a bank holding company which is with respect to the state of Iowa an "out-of-state bank holding company" as defined or referred to in 12 U.S.C. 1842(d), and for purposes of this subsection the words "acquire" or "acquisition" mean to directly or indirectly acquire ownership or control of more than twenty-five percent of the voting shares of any association or the power to control in any manner the election of a majority of the directors of any association.

Sec. 36. Chapter 536A, Code 1981, is amended by adding the following new section:

NEW SECTION. REAL ESTATE LOANS. A licensed industrial loan company may make permanent loans, construction loans, or combined construction and permanent loans, secured by liens on real property, as authorized by rules adopted by the auditor under chapter 17A. These rules shall contain provisions as necessary to insure the safety and soundness of these loans, and to insure full and fair disclosure to borrowers of the effects of provisions in agreements for these loans, including provisions permitting change or adjustment of any terms of a loan, provisions permitting, requiring, or prohibiting repayment of a loan on a basis other than of equal periodic installments of interest plus principal over a fixed term, provisions imposing penalties for the borrower's noncompliance with requirements of a loan agreement, or provisions allowing or requiring a borrower to choose from alternative courses of action at any time during the effectiveness of a loan agreement.

A licensed industrial loan company may include in the loan documents signed by the borrower a provision requiring the borrower to pay the company each month in addition to interest and principal under the note an amount equal to one-twelfth of the estimated annual real estate taxes, special assessments, hazard insurance premium, mortgage insurance premium, or any other payment agreed to by the borrower and the company in order to better secure the loan. The company shall be deemed to be acting in a fiduciary capacity with respect to these funds. A company receiving funds in escrow pursuant to an escrow agreement executed on or after the effective date of this Act in connection with a loan as defined in section 535.8, subsection 1, shall pay interest to the borrower on those funds, calculated on a daily

basis, at the lowest rate the company pays to holders of thrift certificates issued by the company. If the company does not issue thrift certificates as defined in section 536B.2, the company shall pay an interest rate which represents the average of the lowest rates paid on thrift certificates by companies required to be members of the industrial loan thrift guaranty corporation under chapter 536B. This rate shall be determined by the auditor of state as of December 31 and June 30 of each year, and the auditor of state shall cause the rate to be published in the Iowa administrative bulletin within twenty days following the date of determination. The rate so determined shall apply from the date of publication of the rate and until a different rate is published. A company which maintains an escrow account in connection with a loan authorized by this section, whether or not the mortgage has been assigned to a third person, shall each year deliver to the mortgagor a written annual accounting of all transactions made with respect to the loan and escrow account.

Sec. 37. Section 536A.16, Code 1981, is amended to read as follows:

536A.16 CEASE AND DESIST ORDERS. Whenever the auditor has reasonable cause to believe that any licensee is violating any provision of this chapter, chapter 536B, or rules adopted under either chapter, ~~he~~ the auditor may, after ten days' advance written notice, in addition to all actions provided for in this chapter, and without prejudice thereto, enter an order requiring ~~such~~ the licensee to cease, desist and refrain from ~~such~~ the violation. After receipt of the advance written notice as provided above, any licensee, within five days from the receipt of such notice may file with the auditor a written demand for a hearing. ~~Such hearings~~ Hearings shall promptly be held in the office of the auditor and ~~no~~ a cease and desist order shall not be issued until after the hearing ~~during which the~~. The licensee shall be entitled to present evidence and the testimony of witnesses at the hearing.

Sec. 38. Section 536A.17, Code 1981, is amended to read as follows:

536A.17 INJUNCTIONS. The auditor by counsel of the attorney general may commence an action in ~~any court of competent jurisdiction~~ the district court, in the name of the state of Iowa as plaintiff on the relation of ~~such~~ the auditor to restrain and enjoin any licensee from violating ~~the provisions of~~ this chapter, chapter 536B, or rules adopted under either chapter, or to restrain and enjoin any person, copartnership, firm or corporation from engaging in the business of operating an industrial loan company without obtaining a license as required by this chapter.

Sec. 39. Section 536A.22, Code 1981, is amended to read as follows:

536A.22 THRIFT CERTIFICATES. Licensed industrial loan companies may sell senior debt to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness. The total amount of such thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness outstanding and in the hands of the general public shall not at any time exceed ten times the total amount of capital, surplus, undivided profits and subordinated debt that gives priority to such securities of the issuing industrial loan company. ~~The~~ Except as provided in chapter 536B, the sale of such securities shall be subject to the provisions of chapter 502, and shall not be construed to be exempt therefrom by reason of the provisions of section 502.202, subsection 10, except that the sale of thrift certificates or installment thrift certificates which are redeemable by the holder thereof either upon demand or within a period not in excess of one hundred eighty days shall be exempt from sections 502.201 and 502.602.

Sec. 40. Section 536B.2, subsection 5, Code 1981, is amended to read as follows:

5. "Thrift certificates" issued by a member means senior indebtedness issued to and in the hands of the general public, and includes thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes, or similar evidences of indebtedness.

Sec. 41. Section 537.2310, subsection 2, paragraph d, Code 1981, is amended to read as follows:

d. Sales of property or items by the licensee which are not for the profit of the licensee and which are sold for a price not exceeding ~~fifteen~~ fifty dollars.

Sec. 42. Section 537.1301, subsection 14, paragraph b, subparagraph (2), Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 177, section 3, is amended to read as follows:

(2) A debt which is ~~incurred primarily for the purpose of acquiring real property or refinancing a contract for deed to real property and which is~~ secured by a first lien on ~~that~~ real property and which is incurred primarily for the purpose of acquiring that real property, or refinancing a contract for deed to that real property, or constructing on that real property a building containing one or more dwelling units.

Sec. 43. Notwithstanding contrary provisions of this Act, a bank, savings and loan association, credit union or industrial loan company organized or licensed under the laws of this state may until July 1, 1983, make real estate loans pursuant to applicable provisions of the Code as it existed prior to the effective date of this Act and pursuant to any applicable rules that are adopted under section 2, 5, 22, or 36 of this Act after the effective date of this Act. Commencing July 1, 1983, the institution shall make real estate loans only in accordance with applicable rules adopted under section 2, 5, 22, or 36 of this Act.

Sec. 44.

1. Sections 534.3, 534.4, 534.22, 534.24, 534.25, 534.26, 534.27, 534.28, 534.29, 534.30, 534.36, 534.37, 534.38, 534.39, 534.40, 534.67, 534.71, 534.72, and 534.73, Code 1981, are repealed. Section 534.21, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 175, sections 6 and 7, is repealed.

2. Chapter 535B, Code 1981, is repealed.

3. Section 534.19, subsections 2, 3, 4, 5, 11, 16, 17, and 19, Code 1981, are amended by striking those subsections. Section 534.19, subsection 6, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 175, section 3, is amended by striking the subsection.

Approved May 18, 1982

CHAPTER 1254

MOVEMENT OF FARM EQUIPMENT

H.F. 2405

AN ACT to permit certain movements of implements of husbandry, without distance limitations, subject to certain safety rules.

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

Section 1. Section 321.1, subsection 16, paragraph b, subparagraphs (1) and (2), Code 1981, are amended to read as follows:

(1) From a place at which ~~such~~ the vehicles are manufactured, fabricated, repaired, or sold ~~at~~ to a farm site or a retail seller or from a retail seller to a farm site;

(2) To a place at which ~~such~~ the vehicles are manufactured, fabricated, repaired, or sold ~~at~~ to a farm site or a retail seller or from a retail seller from a farm site; or

Sec. 2. Section 321.383, subsection 1, Code 1981, is amended to read as follows:

1. ~~The provisions of this~~ This chapter with respect to equipment on vehicles ~~shall~~ does not apply to implements of husbandry, road machinery, bulk spreaders and other fertilizer and chemical equipment defined as special mobile equipment, road rollers, or farm tractors except as ~~herein~~ made applicable in this section. However, the movement of implements of husbandry between the retail seller and a farm purchaser or the movement of indivisible implements of husbandry between the place of manufacture and a retail seller or farm purchaser under section 321.453 is subject to safety rules adopted by the department. The safety rules shall prohibit the movement of any power unit towing more than one implement of husbandry from the manufacturer to the retail seller, from the retail seller to the farm purchaser, or from the manufacturer to the farm purchaser.

Sec. 3. Section 321.453, Code 1981, is amended to read as follows:

321.453 EXCEPTIONS. The provisions of this chapter governing size, weight, and load ~~shall~~ do not apply to fire apparatus or to implements of husbandry temporarily moved upon a highway, or to implements moved between the retail seller and a farm purchaser ~~within a fifty mile radius from corporate limits wherein his place of business is located~~, or to indivisible implements of husbandry temporarily moved between the place of manufacture and a retail seller or a farm purchaser, or implements received and moved by a retail seller of implements of husbandry in exchange for an implement purchased, except on any part of the interstate highway system, or to a vehicle operating under the terms of a special permit issued as provided in chapter 321E.

Approved May 14, 1982

CHAPTER 1255

APPROPRIATION IN SETTLEMENT OF CLAIMS AGAINST THE STATE

H.F. 2491

AN ACT relating to claims against the state of Iowa and making appropriations in settlement of claims 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 the road use tax 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.	Ruby Lucille Hall Glenwood, Iowa	10273-69-25	Sick leave reimbursement	1,500.00
2.	Harrison Hedgecock Mason City, Iowa	10682-69-25	Compensation bonus for WWII service	465.00
3.	CRST, Inc. Cedar Rapids, Iowa	10216-69-25	Fuel tax refund	11,468.02
4.	Cyclone Transport, Inc. Reinbeck, Iowa	123-70-25	Registration refund	1,194.84
5.	Rassmussen Buick-GMC, Inc. Council Bluffs, Iowa	063-70-25	Sales tax refund	150.00

Sec. 2. The amount of the claim against the state in subsections 3 and 4 of section 1 of this Act shall be paid from the road use tax of the state. The remainder of the claims listed in section 1 of this Act shall be paid from the general fund of this state.

Sec. 3. The general assembly disapproves all other claims submitted to it and considered by the subcommittee on claims of the appropriations committees prior to April 15, 1982.

Approved May 22, 1982

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* Figures above indicate dollar amounts

CHAPTER 1256

APPROPRIATIONS FOR CORRECTIONAL FACILITIES

S.F. 2203

AN ACT relating to appropriations contained in the Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 11, subsections 1 and 4 for capital improvements and construction.

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, 1981, and ending June 30, 1982, to the department of social services, four hundred thousand (400,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 11, subsection 1, except that of the funds appropriated under this section two hundred thousand (200,000) dollars, or so much thereof as is necessary, shall be used to make modifications to the women's reformatory at Rockwell City by constructing a perimeter security fence and road in order to establish a medium security men's correctional facility at the Rockwell City campus.

The perimeter security fence to be constructed at the Rockwell City campus with funds appropriated under this section shall enclose all residential, recreational, educational, and industrial buildings and areas located on or at the Rockwell City campus which are accessible to the general population of the medium security men's correctional facility.

Of the funds appropriated under this section two hundred thousand (200,000) dollars, or so much thereof as is necessary, shall be used to make modifications to the Mitchellville training school in order to establish a women's reformatory at the Mitchellville campus.

Sec. 2. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 11, subsection 4, is amended to read as follows:

4. For construction of a new two hundred bed medium security correctional facility ~~if the general assembly determines that a new facility is needed~~ at the Iowa security and medical facility at Oakdale, provided that any residential units in cellhouse seventeen at the Iowa state penitentiary shall be destroyed within three months of completion of occupancy of the new two hundred bed medium security correctional facility at the Iowa security and medical facility at Oakdale ..... $ $ 7,270,000

~~Funds appropriated under this subsection shall not be expended for any project or projects not authorized by the 1982 session of the general assembly.~~

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its

publication in The Altoona Herald-Mitchellville Index, a newspaper published in Altoona, Iowa, and in The Advocate-Enterprise-Index-Reporter, a newspaper published in Rockwell City, Iowa.

Approved April 28, 1982

I hereby certify that the foregoing Act, Senate File 2203 was published in The Altoona Herald-Mitchellville Index, Altoona, Iowa on May 20, 1982, and in The Advocate-Enterprise-Index-Reporter, Rockwell City, Iowa on May 13, 1982.
MARY JANE ODELL, *Secretary of State*

CHAPTER 1257

ADJUSTMENTS TO APPROPRIATIONS

H.F. 2336

AN ACT relating to adjustments to appropriations for the 1981-1983 fiscal period, including provisions affecting the expenditure of funds and reversions and certain fees.

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

DIVISION 1

Section 1. There is appropriated from the general fund of the state to the Iowa commission for the blind for the fiscal year beginning July 1, 1981 and ending June 30, 1982, the sum of one hundred ten thousand twelve (110,012) dollars, or so much thereof as is necessary to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 1. It is the intent of the general assembly that the funds appropriated in this section be used to fund six staff positions in the library services program.

Notwithstanding section 8.33, unencumbered or unobligated funds appropriated by this section for the fiscal year beginning July 1, 1981 and ending June 30, 1982 shall not revert to the general fund of the state until June 30, 1983.

Sec. 2. There is appropriated from the general fund of the state to the department of public instruction for the fiscal year beginning July 1, 1981 and ending June 30, 1982, the sum of six hundred twenty-three thousand (623,000) dollars or so much thereof as is necessary to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 18.

Sec. 3. Notwithstanding section 8.33, not more than seven hundred ninety-eight thousand eight hundred eighty-one (798,881) dollars of unencumbered or unobligated funds appropriated in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 9, for the fiscal

year beginning July 1, 1981 and ending June 30, 1982, that have been allocated by the state board of regents for fuel and electricity purposes for the institutions under the state board of regents may be carried forward and expended during the fiscal year beginning July 1, 1982 and ending June 30, 1983. The amount carried forward shall be used to supplement the amount allocated by the state board of regents for fuel and electricity in the fiscal year beginning July 1, 1982 and ending June 30, 1983. For the purpose of this section, twenty-one million, three hundred fifty-nine thousand nine hundred twenty-six (21,359,926) dollars of funds appropriated in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 9, have been allocated by the state board of regents for fuel and electricity purposes in the fiscal year beginning July 1, 1981 and ending June 30, 1982.

Sec. 4. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the state board of regents for the specialized child health services program at the university of Iowa hospitals, six thousand seventy-five (6,075) dollars, or so much thereof as is necessary, to be used to replace the loss of federal funds to the phenylketonuria program. The funds appropriated in this section shall only be used to cover the cost of lofenalac required for treatment of phenylketonuria.

DIVISION 2

Sec. 5. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the state department of health for the health facilities division, twenty thousand one hundred thirty-five (20,135) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 4, subsection 2.

Sec. 6. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the state department of health for the licensing and certification division, eight thousand six hundred (8,600) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 4, subsection 5. Of the funds appropriated under this section, six thousand five hundred (6,500) dollars is appropriated to the board of physical and occupational therapy examiners and two thousand one hundred (2,100) dollars is appropriated to the board of mortuary science examiners.

Sec. 7. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 4, subsection 7, paragraph d, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall identify any homemaker-home health aide funds allocated to counties under this paragraph which the counties do not anticipate spending during the fiscal year ending June 30, 1982. If the anticipated excess funds to any county are substantial, the department and the county may agree to return the excess funds to the department. The department may reallocate the excess funds to counties whose allocations are substantially insufficient to pay for homemaker-home health aide services during the fiscal year ending June 30, 1982.

DIVISION 3

Sec. 8. There is appropriated from the general fund of the state to the department of environmental quality for the fiscal year beginning July 1, 1981 and ending June 30, 1982 the sum of thirty thousand nine hundred twenty-five (30,925) dollars or so much thereof as is necessary to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 12, section 9, subsection 1.

Sec. 9. It is the intent of the general assembly that the fee schedule required by section 455B.32, subsection 6, be implemented. The fees shall be deposited in the general fund of the state.

DIVISION 4

Sec. 10. There is appropriated from the general fund of the state to the Iowa beer and liquor control department for the fiscal year beginning July 1, 1981 and ending June 30, 1982, the sum of eighty thousand (80,000) dollars, or so much thereof as may be necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 6, section 2, subsection 3.

Sec. 11. There is appropriated from the general fund of the state to the insurance department of Iowa for the fiscal year beginning July 1, 1981 and ending June 30, 1982, the sum of sixty thousand (60,000) dollars, or so much thereof as may be necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 6, section 2, subsection 9.

Sec. 12. There is appropriated from the general fund of the state to the department of revenue for the fiscal period beginning July 1, 1981 and ending June 30, 1983 the amount of two hundred thirty-seven thousand five hundred (237,500) dollars, or so much thereof as is necessary to pay the attorney fees, witness fees, travel and other legal fees for three pipeline cases in litigation before the state board of tax review which involves valuation of property for tax purposes.

DIVISION 5

Sec. 13. Pursuant to section 2604 of the federal Omnibus Budget Reconciliation Act of 1981, one million six hundred thousand (1,600,000) dollars of this state's allotment of funds under the federal Low-Income Home Energy Assistance Act of 1981, section 2601, et seq., of the federal Omnibus Budget Reconciliation Act of 1981, is transferred within the special fund in the state treasury established under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, for use and appropriation by the general assembly as authorized by the federal Social Services Block Grant Act, section 2351, et seq., of the Federal Omnibus Budget Reconciliation Act of 1981.

Sec. 14. There is appropriated from the special fund in the state treasury established by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3 from those federal social services block grant funds transferred from federal energy assistance funds under section 13 of this Act, for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services, the following amounts, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by the following designated portions of chapters of Acts of the Sixty-ninth General Assembly, 1981 Session:

	Supplemental Appropriation from Low-Income Home Energy Assistance Act Funds transferred to the Social Services Block Grant Act Funds 1981-1982 Fiscal Year
1. For general administration under chapter 7, section 1	$ 99,800
2. For the division of field operations under chapter 7, section 2	$ 649,800
3. For home-based services under chapter 7, section 3, subsection 8, provided that the funds appropriated for home-based services under	

this subsection and Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 8, for the fiscal year beginning July 1, 1981, and ending June 30, 1982, may be used only for home-based services and shall not be transferred or used for any other purposes, notwithstanding section 8.39 ..... $ 7,400

4. For foster care under chapter 7, section 3, subsection 9 ..... $ 236,400

5. For community-based services under chapter 7, section 3, subsection 10 ..... $ 6,400

Sec. 15. There is appropriated from the special fund in the state treasury established by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3 from those federal social services block grant funds transferred from federal energy assistance funds under section 13 of this Act, for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services six hundred thousand two hundred (600,200) dollars, or so much thereof as is necessary, for allocation to the various districts of the department of social services for the purchase of local day care services and other local services for eligible individuals and for allocation to the various counties for local administration, under the fiscal year 1981-1982 state plan for use of the funds received under Title XX of the federal Social Security Act.

Sec. 16. The eligibility level for services under Title XX of the federal Social Security Act, also referred to as services provided with social services block grant funds, for the fiscal year beginning July 1, 1981, and ending June 30, 1982, shall not be reduced below forty-one and two-tenths percent of the federal median income as established in the fiscal year 1981-1982 state plan for use of funds received under Title XX of the federal Social Security Act.

Sec. 17. The appropriation from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services for general administration under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 1 is reduced by five hundred thirty-four thousand two hundred (534,200) dollars, which is in addition to the reduction of general administration funds released, deposited, and transferred under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17.

Sec. 18. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services for the division of field operations one million four hundred seventy-five thousand (1,475,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 2.

Sec. 19. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services for medical assistance nine million seven hundred thirty-five thousand (9,735,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2.

1. The medical assistance program established in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, unnumbered paragraph 2, for those eligible children under twenty-one years of age shall be continued through June 30, 1982.

2. The maximum co-payments allowed by federal law or regulation shall be placed on all optional services under the medical assistance program. A fixed co-payment shall be

established for each optional service by computing the average or typical payment for each optional service. The co-pay requirement shall not apply to the services provided under the early and periodic screening, diagnosis, and treatment program and to services provided to recipients in hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, and state mental health institutes.

3. The medical assistance reimbursement rate for reserve bed days for intermediate care facility residents who are hospitalized or on a home stay shall be reduced from eighty percent to seventy-five percent of the allowable audited costs for those beds, which costs shall not exceed the maximum daily reimbursement rate for intermediate care facilities under the medical assistance program.

4. Medical assistance payments shall not be made for inpatient hospital services which can effectively and safely be performed on an outpatient basis.

5. Notwithstanding section 249A.4, subsections 1 and 9, medical assistance payments to hospitals, skilled nursing facilities, and intermediate care facilities shall be limited to the rate applicable to the lowest level of care medically required by the patient, including the rate for residential care facilities, rather than to the level of care for which the hospital or facility is certified to provide under the medical assistance program.

6. Notwithstanding section 249A.4, subsections 1 and 9, and Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, unnumbered paragraph 6, medical assistance payments for all mandatory and optional services, except for intermediate care facility services, intermediate care facility services for the mentally retarded, services provided to recipients in state mental health institutes, and medical transportation services other than ambulance services, shall be reduced by a factor of two and one-half percent. However, the two and one-half percent reduction shall not apply to the ingredient cost of prescription drugs or to hospital reimbursements.

7. Criteria for prior authorization of specified services under the medical assistance program shall be scrutinized to determine whether the current review process results in the most effective provision of needed services. If a change in the review process would be beneficial, the criteria shall be modified to change the review process or to subject additional services to prior authorization.

Sec. 20. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services for contractual services-medical carrier three hundred forty-eight thousand (348,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 3.

Sec. 21. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services for state supplementary assistance one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 6.

Sec. 22. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services for foster care one hundred four thousand (104,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 9.

Sec. 23. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services for community-based services eighty-five thousand (85,000) dollars, or so much thereof as is

necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 10.

Sec. 24.

1. The appropriation from the general fund of the state for the fiscal year beginning July 1, 1981, and ending March 31, 1982, to the department of social services for shelter cost assistance under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 4, is reduced by two hundred thousand (200,000) dollars.

2. The shelter cost assistance program established in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 4, shall be continued through June 30, 1982, and the appropriation in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 4 shall be available for the program through June 30, 1982. However, the eligibility criteria for the program need not be more restrictive than the criteria established by Title IV-A of the federal Social Security Act in effect on September 30, 1981.

Sec. 25. There is appropriated from the general fund of this state for the fiscal year beginning July 1, 1981, and ending June 30, 1982, to the department of social services nine hundred seventy-three thousand (973,000) dollars, or so much thereof as is necessary, for supplementation of federal social services block grant funds and for allocation to the various districts of the department of social services for the purchase of local day care services and other local services for eligible individuals and for allocation to the various counties for local administration, under the fiscal year 1981-1982 state plan for use of funds received under Title XX of the federal Social Security Act.

Sec. 26. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 5, is repealed.

Sec. 27. The department of social services shall adopt administrative rules under section 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph b relating to section 15, section 19, subsections 2 through 7, and section 25 of this Act, and may adopt administrative rules under section 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph b relating to section 19, subsection 1 and section 24, subsection 2 of this Act, and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

Sec. 28. Notwithstanding section 252B.4, if federal law or regulation requires the imposition of a fee on an individual who owes a support obligation for the support collection services provided under chapter 252B to a resident parent not otherwise eligible as a public assistance recipient, the commissioner of the department of social services shall charge the individual the fee required by federal law or regulation which may be in addition to the actual amount of support owed by the individual.

DIVISION 6

Sec. 29. There is transferred from the office of the treasurer of state to the account of the state historical department the balance of the life membership trust fund on June 30, 1981. The funds shall be expended as provided in section 303.9.

Sec. 30. For the fiscal years beginning July 1, 1981, and July 1, 1982, the Iowa department of justice may receive and there is appropriated, in addition to its appropriation from the general fund, not exceeding ninety-five thousand (95,000) dollars each year from damages awarded to the state or its political subdivisions by any civil antitrust judgment, for use in antitrust enforcement, if the judgment allows the funds received to be used for such purposes.

Sec. 31. There is appropriated from the general fund of the state to the Iowa merit employment department for the fiscal year beginning July 1, 1981 and ending June 30, 1982, the sum of seven thousand three hundred fifty (7,350) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 7, subsection 6.

DIVISION 7

Sec. 32. Acts of the Sixty-eighth General Assembly, 1980 Session, chapter 1095, section 22, is amended to read as follows:

SEC. 22. There is appropriated from the general fund of the state for the use of the Iowa railway finance authority for the fiscal period beginning July 1, 1980 and ending June 30, 1983 the sum of two hundred seventy-five thousand (275,000) dollars, or so much thereof as is necessary, to be used for salaries, support, maintenance and miscellaneous purposes and to establish and maintain the Iowa railway finance authority and its staff, to promulgate rules under chapter seventeen A (17A) of the Code and for planning purposes. ~~Section eight point thirty-three (8.33) of the Code shall not apply to the funds appropriated by this section. The funds appropriated by this section which are unencumbered and unobligated on July 1, 1982 shall be transferred to the railroad assistance fund and be available for the purposes provided in chapter three hundred twenty-seven H (327H) of the Code.~~

Sec. 33. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 1981 and ending June 30, 1982, the sum of three thousand nine hundred (3,900) dollars, or so much thereof as may be necessary, to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 1, subsection 1.

Sec. 34. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 1981 and ending June 30, 1982, the sum of one hundred thirty-one thousand nine (131,009) dollars, or so much thereof as may be necessary, to repay the United States government for overpayments received for intermediate care facility inspection.

Sec. 35. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 9, is amended to read as follows:

SEC. 9. All unencumbered or unobligated balances of funds remaining on June 30, 1985, from funds appropriated by subsection 2 of section ~~6~~ 8 shall revert to the primary road fund on September 30, 1985.

DIVISION 8

Sec. 36. Matching state funds released due to federal grant reductions pursuant to the consolidation of federal categorical grants into federal block grants, and deposited in a special fund in the state treasury during the fiscal year beginning July 1, 1981 under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 4, are transferred to the general fund of the state.

The matching state funds released, deposited, and transferred under this section are portions of those funds appropriated for the fiscal year beginning July 1, 1981, and ending June 30, 1982, under the following Acts of the Sixty-ninth General Assembly, 1981 Session:

1. Chapter 7, section 1; section 2; section 3, subsection 8; section 3, subsection 9; and section 3, subsection 10; and

2. Chapter 5, section 6, subsection 1.

Sec. 37. Matching state funds released due to federal categorical grant reductions and deposited in a special fund in the state treasury during the fiscal year beginning July 1, 1981 under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 5, subsection 5, are transferred to the general fund of the state.

The matching state funds released, deposited, and transferred under this section are portions of those funds appropriated for the fiscal year beginning July 1, 1981, and ending June 30, 1982, under the following Acts of the Sixty-ninth General Assembly, 1981 Session:

1. Chapter 7, section 1; section 2; section 3, subsection 1; section 3, subsection 2; section 3, subsection 3; section 3, subsection 4; and section 3, subsection 9;
2. Chapter 10, section 7, subsection 5, paragraph a; section 7, subsection 8, paragraph a;
3. Chapter 12, section 9, subsection 1; section 12, subsection 2, paragraph c; and
4. Chapter 8, section 8, subsection 4.

Sec. 38. This Act, being deemed of immediate importance, takes effect from and after its publication in The Daily Iowan, a newspaper published in Iowa City, Iowa, and in The Sioux City Journal, a newspaper published in Sioux City, Iowa.

Approved March 12, 1982

I hereby certify that the foregoing Act, House File 2336 was published in The Daily Iowan, Iowa City, Iowa on March 18, 1982 and in The Sioux City Journal, Sioux City, Iowa on March 18, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1258

CRIMINAL JUSTICE AND VICTIM REPARATION PROGRAMS AND APPROPRIATIONS

H.F. 2493

AN ACT relating to criminal justice programs by imposing a ten percent penalty assessment surcharge on certain fines and forfeitures, establishing a crime victim reparation program, striking certain references to a criminal justice improvement fund in Acts of the Sixty-ninth General Assembly, 1981 Session, and making appropriations to certain departments for criminal justice programs, and a victim reparation program.

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

Section 1. NEW SECTION. CRIMINAL PENALTY SURCHARGE ESTABLISHED. A criminal penalty surcharge shall be levied against certain law violators as provided in section 2 of this Act. The surcharge shall be deposited as provided in section 3 of this Act and shall be used for the maintenance and improvement of criminal justice programs, law enforcement efforts, victim reparation, crime prevention, and improvement of the professional training of personnel, and the planning and support services of the criminal justice system.

Sec. 2. NEW SECTION. TEN PERCENT SURCHARGE. When a court imposes a fine or forfeiture for a violation of a state law, or of a city or county ordinance except an ordinance regulating the parking of motor vehicles, the court shall assess an additional penalty in the form of a surcharge equal to ten percent of the fine or forfeiture imposed. In the event of multiple offenses, the surcharge shall be based upon the total amount of fines or forfeitures imposed for all offenses. When a fine or forfeiture is suspended in whole or in part, the surcharge shall be reduced in proportion to the amount suspended. This section applies only with respect to criminal actions commenced on or after July 1, 1982.

Sec. 3. NEW SECTION. DISPOSITION OF SURCHARGE. When a court assesses a surcharge under section 2 of this Act, the clerk of the district court shall transmit ninety percent of the surcharge collected to the treasurer of state by the fifteenth day of the following month. The treasurer of state shall deposit the money in the general fund of the state. The clerk of the district court shall transmit ten percent of the surcharge to the county treasurer for deposit in the county court expense fund or shall remit ten percent of the surcharge to the city that was the plaintiff in any action for deposit in the general fund of the city.

Sec. 4. VICTIM REPARATION INTENT. It is the intent of the general assembly to provide a program for compensating and assisting innocent victims of violent criminal acts who suffer bodily injury or death as a consequence, and for encouraging greater public cooperation in the successful apprehension and prosecution of criminal offenders. It is also the intent of the general assembly that the department of public safety, each county attorney, and each local law enforcement agency shall publicize the crime victim reparation program and promote the use of the program.

Sec. 5. NEW SECTION. DEFINITIONS. As used in sections 5 through 16 of this Act, unless the context otherwise requires:

1. "Department" means the department of public safety.

2. "Commissioner" means the commissioner of the department or the commissioner's designee.

3. "Victim" means a person who suffers personal injury or death as a result of any of the following:

a. A crime.

b. The good faith effort of a person attempting to prevent a crime.

c. The good faith effort of a person to apprehend a person suspected of committing a crime.

4. "Crime" means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony, an aggravated misdemeanor, or a serious misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except when the intention is to cause personal injury or death.

5. "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.

6. "Reparation" means compensation awarded by the commissioner as authorized by sections 5 through 16 of this Act.

Sec. 6. NEW SECTION. AWARD OF REPARATION. The commissioner shall award reparations authorized by sections 5 through 16 of this Act if the commissioner is satisfied that the requirements for reparation have been met.

Sec. 7. NEW SECTION. DUTIES OF COMMISSIONER. The commissioner shall:

1. Adopt rules pursuant to chapter 17A relating to the administration of the crime victim reparation program, including the filing of claims pursuant to the program, and the hearing and disposition of the claims.

2. Hear claims, determine the results relating to claims, and reinvestigate and reopen cases as necessary.

3. Publicize through the department, county sheriff departments, municipal police departments, county attorney offices, and other public or private agencies, the existence of the crime victim reparation program, including the procedures for obtaining reparation under the program.

4. Request from the department of social services, the Iowa department of job service, the industrial commissioner, the attorney general, the county sheriff departments, the municipal police departments, the county attorneys, or other public authorities or agencies reasonable assistance or data necessary to administer the crime victim reparation program.

5. Require medical examinations of victims as needed. The victim shall be responsible for the cost of the medical examination if reparation is made. The department shall be responsible for the cost of the medical examination from funds appropriated to the department for the crime victim reparation program if reparation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization.

6. Render to the governor and the general assembly by January 1, 1984, a written report of activities undertaken for the crime victim reparation program.

Sec. 8. NEW SECTION. APPLICATION FOR REPARATION.

1. To claim a reparation under the crime victim reparation program, a person shall apply in writing on a form prescribed by the commissioner and file the application with the commissioner within one hundred eighty days after the date of the crime or within one hundred twenty days after the date of death of the victim.

2. A person is not eligible for reparation unless the crime was reported to the local police department or county sheriff department within twenty-four hours of its occurrence. However, if the crime cannot reasonably be reported within that time period, the crime shall have been reported within twenty-four hours of the time a report can reasonably be made.

Sec. 9. NEW SECTION. REPARATIONS PAYABLE. The commissioner may order the payment of reparation:

1. To or for the benefit of the person filing the claim.

2. To a person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of personal injury to the victim.

3. To or for the benefit of one or more dependents of the victim, in the case of death of the victim. If two or more dependents are entitled to a reparation, the reparation may be apportioned by the commissioner as the commissioner determines to be fair and equitable among the dependents.

Sec. 10. NEW SECTION. COMPUTATION OF REPARATION. The commissioner shall make reparation as appropriate, for any of the following economic losses incurred as a direct result of an injury to or death of the victim, not to exceed two thousand dollars per victim unless otherwise specified:

1. Reasonable charges incurred for medical care.

2. Loss of income from work the victim would have performed and received compensation for if the victim had not been injured.

3. Reasonable replacement value of clothing that is held for evidentiary purposes, but not to exceed one hundred dollars.

4. Reasonable funeral and burial expenses not to exceed one thousand dollars.

Sec. 11. NEW SECTION. REDUCTIONS AND DISQUALIFICATIONS. Reparations are subject to reduction and disqualification as follows:

1. A reparation shall be reduced by the amount of any payment received, or to be received, as a result of the injury or death:

a. From or on behalf of, the person who committed the crime.

b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.

c. From public funds.

d. As an emergency award under section 15 of this Act.

2. A reparation shall not be made when the bodily injury or death for which a benefit is sought was caused by any of the following:

a. Consent, provocation, or incitement by the victim.

b. An act committed by a person living in the same household with the victim, unless a criminal conviction for the act is obtained.

c. An act committed by a person who is, at the time of the criminal act, the spouse, child, stepchild, parent, stepparent, brother, stepbrother, sister, or stepsister of the victim, or the parent or stepparent of the victim's spouse, or a brother, stepbrother, sister, or stepsister of the victim's spouse, unless a criminal conviction for the act is obtained.

d. The victim assisting, attempting, or committing a criminal act.

3. A person is disqualified from receiving a reparation if the victim has not cooperated with an appropriate law enforcement agency in the investigation or prosecution of the crime relating to the claim, or has not cooperated with the department in the administration of the crime victim reparation program.

Sec. 12. NEW SECTION. REPARATION WHEN MONEY INSUFFICIENT. Notwithstanding sections 5 through 16 of this Act a victim otherwise qualified for a reparation under the crime victim reparation program, is not entitled to the reparation when there is insufficient money from the appropriation for the program to pay the reparation.

Sec. 13. NEW SECTION. ERRONEOUS OR FRAUDULENT PAYMENT— PENALTY.

1. If a payment or overpayment of a reparation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient, or other circumstances of a similar nature, not induced by fraud by or on behalf of the recipient, the recipient is liable for repayment of the reparation. The commissioner may waive, decrease, or adjust the amount of the repayment of the reparation. However, if the commissioner does not notify the recipient of the erroneous payment or overpayment within one year of the date the reparation was made, the recipient is not liable for the repayment of the reparation.

2. If a payment or overpayment has been induced by fraud by or on behalf of a recipient, the recipient is liable for repayment of the reparation.

Sec. 14. NEW SECTION. RELEASE OF INFORMATION. A person in possession or control of investigative or other information pertaining to an alleged crime or a victim filing for a reparation shall allow the inspection and reproduction of the information by the commissioner upon the request of the commissioner, to be used only in the administration and enforcement of the crime victim reparation program. Information and records which are confidential under section 68A.7 and information or records received from the confidential information or records remain confidential under this section.

A person does not incur legal liability by reason of releasing information to the commissioner as required under this section.

Sec. 15. NEW SECTION. EMERGENCY PAYMENT REPARATION. If the commissioner determines that reparation may be made and that undue hardship may result to the person if partial immediate payment is not made, the commissioner may order an emergency reparation to be made to the person, not to exceed five hundred dollars.

Sec. 16. NEW SECTION. RIGHT OF ACTION AGAINST PERPETRATOR— SUBROGATION. A right of legal action by the victim against a person who has committed a crime is not lost as a consequence of a person receiving reparation under the crime victim reparation program. If a person receiving reparation under the program seeks indemnification which would reduce the reparation under section 11, subsection 1 of this Act, the commissioner is subrogated to the recovery to the extent of payments by the commissioner to or on behalf of the person. The commissioner has a right of legal action against a person who has

committed a crime resulting in payment of reparation by the department to the extent of the reparation payment. However, legal action by the commissioner does not affect the right of a person to seek further relief in other legal actions.

Sec. 17. NEW SECTION. SUNSET CLAUSE. Sections 4 through 16 of this Act are repealed effective July 1, 1984.

Sec. 18. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 1, subsection 3, paragraph d, is amended by striking the paragraph.

Sec. 19. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 6, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 20. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 3, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 21. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 1, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 22. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 2, subsection 3, paragraph d, is amended by striking the paragraph.

Sec. 23. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 3, subsection 3, is amended by striking the subsection.

Sec. 24. There is appropriated from the general fund of the state to the following named agencies for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the following amounts, or as much thereof as is necessary, to be used for the purposes designated:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
1. DEPARTMENT OF PUBLIC SAFETY		
a. For undercover purchases of drugs by the division of criminal investigation agents and local law enforcement agents	$	$ 200,000
b. For salaries, support, maintenance, and miscellaneous purposes for improvement of laboratory services provided by the division of criminal investigation to local law enforcement agencies	$	$ 200,000
c. For the development and operation of a pilot program for the crime victim reparation program pursuant to sections 5 through 16 of this Act	$	$ 200,000
d. For salaries, support, maintenance, and miscellaneous purposes for public interest crime prevention programs	$	$ 60,000
e. For preliminary breath test equipment	$	$ 40,000
2. IOWA LAW ENFORCEMENT ACADEMY		
For increased local police training	$	$ 80,000
3. DEPARTMENT OF SOCIAL SERVICES		
For salaries, support, maintenance, and miscellaneous purposes of the division of adult corrections for a corrections academy at Mount Pleasant	$	$ 80,000

4. OFFICE FOR PLANNING AND PROGRAMMING

For salaries, support, maintenance, and miscellaneous purposes to support local staff performing pre-sentence investigations and probation supervision of persons accused of violating section 321.281 ..... $ $ 320,000

Sec. 25. This Act takes effect July 1, 1982. However, payments for reparation under sections 5 through 16 of this Act shall only be made to victims of criminal acts which are committed on or after January 1, 1983.

Approved May 12, 1982

CHAPTER 1259

CHILD ABUSE PREVENTION

H.F. 2393

AN ACT creating a child abuse prevention program and a child abuse prevention program advisory council, providing an increase in certain fees, and providing an appropriation.

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

Section 1. NEW SECTION. CHILD ABUSE PREVENTION PROGRAM.

1. A program for the prevention of child abuse is established within the state department of social services. Any moneys appropriated by the general assembly for child abuse prevention shall be used by the department of social services solely for the purposes of child abuse prevention and shall not be expended for treatment or other service delivery programs regularly maintained by the department. Moneys appropriated for child abuse prevention shall be used by the department through contract with an agency or organization which shall administer the funds with maximum use of voluntary administrative services for the following:

a. Matching federal funds to purchase services relating to community-based programs for the prevention of child abuse and neglect.

b. Funding the establishment or expansion of community-based prevention projects or educational programs for the prevention of child abuse and neglect.

c. To study and evaluate community-based prevention projects and educational programs for the problems of families and children.

Funds for the programs or projects shall be applied for and received by a community-based volunteer coalition or council.

2. The commissioner of social services may accept grants, gifts, and bequests from any source for the purposes designated in subsection 1. The commissioner shall remit funds so

received to the treasurer of state who shall deposit them in the general fund of the state for the use of the child abuse prevention program.

3. The child abuse prevention program advisory council is created consisting of five members appointed by and serving at the pleasure of the governor. Two members shall be appointed on the basis of expertise in the area of child abuse and neglect, and three members shall be private citizens. The council shall select its own chairperson and shall serve without compensation or reimbursement for expenses.

4. The advisory council shall:

a. Advise the commissioner of social services and the director of the division of the department of social services responsible for child and family programs regarding expenditures of funds received for the child abuse prevention program.

b. Review the implementation and effectiveness of legislation and administrative rules concerning the child abuse prevention program.

c. Recommend changes in legislation and administrative rules to the general assembly and the appropriate administrative officials.

d. Require reports from state agencies and other entities as necessary to perform its duties.

e. Receive and review complaints from the public concerning the operation and management of the child abuse prevention program.

f. Approve grant proposals.

Sec. 2. Section 331.705, subsection 1, paragraph ab, Code 1981 Supplement, is amended to read as follows:

ab. For issuing a marriage license, ~~five~~ ten dollars. ~~For issuing a marriage license 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. 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.~~ The clerk of the district court shall remit to the treasurer of state five dollars for each marriage license issued. The treasurer of state shall deposit the funds received in the general fund of the state. 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.

Sec. 3. There is appropriated from the general fund of the state to the department of social services for the fiscal year beginning July 1, 1982 and ending June 30, 1983, one hundred ten thousand (110,000) dollars or so much thereof as is necessary for the child abuse prevention program.

Approved May 10, 1982.

CHAPTER 1260

OMNIBUS SUPPLEMENTAL APPROPRIATIONS

S.F. 2304

AN ACT relating to and making supplemental appropriations for the fiscal year beginning July 1, 1982 and ending June 30, 1983.

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

DIVISION I

Section 1. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 2, subsections 1 and 4, are amended to read as follows:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
1. For the operation of the training schools for delinquent juveniles and the Iowa juvenile home at Toledo, including salaries and support, maintenance, and miscellaneous purposes	$ 7,000,000	$ ~~7,000,000~~ 6,476,481

The Mitchellville training school shall be closed no later than June 1, 1982 and its female juvenile population shall be transferred to the Iowa juvenile home at Toledo. Notwithstanding any provision of the Code to the contrary, both children in need of assistance and juveniles adjudicated to have committed a delinquent act may be placed at the Iowa juvenile home at Toledo. That portion of the juvenile home housing delinquent juveniles shall be considered a second campus of the Eldora training school. Chapter 242 applies to that portion of the juvenile home and the delinquent juveniles housed in that portion. Chapter 244 applies to children in need of assistance placed at the juvenile home and the portion of the juvenile home housing those children.

4. For operation of the Iowa veterans home, including salaries and support, maintenance, and miscellaneous purposes	$ 11,750,000	$ ~~14,500,000~~ 15,100,000

Sec. 2. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services, three million eight hundred fifteen thousand (3,815,000) dollars, or so much thereof as is necessary, to be used for the same purposes and to supplement funds appropriated by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 3, subsection 1, except that the funds may be used for the Iowa correctional institution for women at Mitchellville and provided that the Luster Heights correctional work camp shall serve as the primary minimum security correctional work camp.

Notwithstanding the prison system population figures in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 3, subsection 1, only a prison system population exceeding two thousand seven hundred eighty shall require the declaration of a prison overcrowding state of emergency, and a prison system population below two thousand six hundred

eighty shall require the termination of a state of emergency. The ninety-day reductions in tentative discharge dates provided for in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 3, subsection 1, shall only be required if the prison system population equals or exceeds two thousand six hundred eighty for ninety days after a state of emergency has been in effect. The new prison system population figures in this unnumbered paragraph apply retroactively to a state of emergency declared prior to the effective date of this Act.

Of the funds appropriated under this section one hundred fifty thousand (150,000) dollars, or so much thereof as is necessary, shall be used for an inmate classification system.

The department may provide television channels to inmates, and shall suspend access to television as a disciplinary measure.

Sec. 3. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 3, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 4. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 3, subsection 3, is amended to read as follows:

3. Community-based corrections	$ 10,620,000	$ ~~11,150,000~~ 11,425,000

A judicial district which uses funds appropriated under this subsection may contract for services from or provide funds to private agencies to provide education, job placement, or counseling services to ex-offenders intended to facilitate the transition from incarceration to living in a free society.

Notwithstanding Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 13, funds appropriated under this subsection for the fiscal year beginning July 1, 1982, and ending June 30, 1983, may be used for the acquisition or improvement of residential correctional facilities as provided in section 8.45.

Sec. 5. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 10, is amended to read as follows:

SEC. 10. Notwithstanding section 227.17, there is appropriated from the general fund of the state for ~~each~~ the fiscal year ~~of the biennium~~ beginning July 1, 1981, and ending June 30, ~~1983~~ 1982, to the state mental aid fund four hundred forty thousand (440,000) dollars, or so much thereof as may be necessary.

Sec. 6. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 11, subsection 1, is amended to read as follows:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
1. For capital improvements at institutions under the department of social services ~~other than at the women's reformatory at Rockwell City~~	$ 650,000	$ ~~800,000~~ 1,225,000

Sec. 7. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 11, is amended by adding the following new subsections:

NEW SUBSECTION. For municipal waste treatment facilities at the Glenwood state hospital-school, the Eldora training school, and the Independence mental health institute	$	$ 470,769
NEW SUBSECTION. For capital improvements at the Iowa state penitentiary	$	$ 500,000

The appropriation under this subsection is contingent upon action of the executive council to rescind five hundred thousand (500,000) dollars of the one million one hundred thirty-five thousand (1,135,000) dollars set aside from the general fund by the executive council, pursuant to sections 19.29 and 29C.20, to pay for equipment replacement, repair, rebuilding, rewiring, glass replacement, and overtime at the Iowa state penitentiary due to the inmate disturbance of September 2, 1981.

Sec. 8. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 11, section 11, subsection 7, is amended to read as follows:

7. ~~Unobligated or unencumbered funds appropriated by this section remaining on June 30, 1985, shall revert to the general fund on September 30, 1985.~~ Unobligated or unencumbered funds appropriated by this section for the fiscal year beginning July 1, 1981, and ending June 30, 1982, remaining on June 30, 1985, shall revert to the general fund on September 30, 1985. However, if the projects for which these funds are appropriated are completed prior to June 30, 1985, the remaining unobligated or unencumbered funds shall revert to the general fund on September 30 following the end of the fiscal year in which the projects are completed.

Unobligated or unencumbered funds appropriated by this section for the fiscal year beginning July 1, 1982, and ending June 30, 1983, remaining on June 30, 1986, shall revert to the general fund on September 30, 1986. However, if the projects for which these funds are appropriated are completed prior to June 30, 1986, the remaining unobligated or unencumbered funds shall revert to the general fund on September 30 following the end of the fiscal year in which the projects are completed.

Sec. 9. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 75, section 1, is amended to read as follows:

SECTION 1. Section 218.74, Code 1981, is amended by striking the section and inserting in lieu thereof the following:

218.74 REVOLVING FARM FUND. A revolving farm fund is created in the state treasury in which the department of social services shall deposit receipts from agricultural products, nursery stock, agricultural land rentals, and the sale of livestock. However, before any agricultural operation is phased out, the department which proposes to discontinue this operation shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and co-chairpersons and ranking members of the subcommittee in the senate and house of representatives which has handled the appropriation for this department in the past session of the legislature. Before any department sells farmland under the control of the department, that department shall notify the governor, chairpersons and ranking members of the house and senate appropriations committees, and co-chairpersons and ranking members of the joint appropriations subcommittee that handled the appropriation for the department during the past legislative session. The department may pay from the fund for the operation, maintenance, and improvement of farms and agricultural or nursery property under the control of the department. A purchase order for five thousand dollars or less payable from the fund is exempt from the general purchasing requirements of chapter 18. Notwithstanding section 8.33, unencumbered or unobligated receipts in the revolving farm fund at the end of a fiscal year shall not revert to the general fund of the state.

The department of social services shall annually prepare a financial statement to provide for an accounting of the funds in the revolving farm fund. The financial statement shall be filed with the legislative fiscal bureau on or before February 1 each year.

Sec. 10. Notwithstanding Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, section 12, counties are not entitled to reimbursement for local inpatient mental health care and treatment for the fiscal year beginning July 1, 1982, and ending June 30, 1983.

Sec. 11. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, section 53, is amended to read as follows:

SEC. 53. There is appropriated from the general fund of the state for ~~each~~ the fiscal year ~~of the biennium~~ beginning July 1, 1981, and ending June 30, ~~1983~~ 1982, to the department of social services three hundred seventy thousand (370,000) dollars, or so much thereof as is necessary for reimbursement to counties for local inpatient mental health care and treatment as provided in section 12 of this Act.

Sec. 12. If the general allocation of the state community mental health and mental retardation services fund for fiscal year 1982-1983 does not provide a county with an equal or greater amount of state funds as the county received for fiscal year 1980-1981 from both the state mental aid fund under sections 227.16 through 227.18 and the partial reimbursement for local inpatient mental health care under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, sections 12 and 53, the difference shall be allocated from the special allocation of the state community mental health and mental retardation services fund to the county by the mental health and mental retardation commission under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, section 6, subsection 1, paragraph g.

Sec. 13. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982 and ending June 30, 1983, to the state community mental health and mental retardation services fund established in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, section 7, one million three hundred sixty thousand (1,360,000) dollars, or so much thereof as is necessary, for the purposes authorized by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 78, sections 7 through 11.

Sec. 14. The mental health and mental retardation commission and the commission on substance abuse shall establish a memorandum of understanding including provisions to coordinate compatible administrative activities. These activities include but are not limited to the utilization of management information systems, local and statewide fiscal and program planning, licensure and accreditation of community programs, and provision of training and technical assistance to local programs and governmental subdivisions.

The memorandum shall be developed by the commissions in consultation with the legislative fiscal bureau and a copy of the memorandum shall be sent to the legislative fiscal director by October 1, 1982. The legislative fiscal bureau shall report to the joint corrections and mental health and human resources appropriations subcommittees during the 1983 Session of the Seventieth General Assembly regarding the status of the memorandum and the coordination of activities.

Sec. 15. In order to further long-range correctional planning, the director of the division of adult corrections of the department of social services shall advise the joint corrections and mental health appropriations subcommittee of the general assembly of the approximate costs of developing and updating a corrections master plan for the next five years.

Sec. 16. Section 110.24, unnumbered paragraph 7, Code 1981, is amended to read as follows:

No license shall be required of minor pupils of the state school for the blind, state school for the deaf, nor of minor ~~inmates~~ residents of other state institutions under the control of a director of a division of the department of social services, except that this provision shall not apply to the inmates ~~of the men's penitentiary at Fort Madison, the men's reformatory at Anamosa, and the women's reformatory at Rockwell City, nor shall any~~ of state institutions under the control of the director of the division of adult corrections, nor shall any person who is on active duty with the Armed Forces of the United States, on authorized leave, and a legal resident of the state of Iowa, be required to have a license to hunt or fish in this state. No license shall be required of ~~inmates~~ residents of county care facilities or any person who is receiving old-age assistance under chapter 249.

Sec. 17. Section 217.8, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 27, section 2, is amended to read as follows:

217.8 DIVISION OF CHILD AND FAMILY SERVICES. The director of the division of child and family services shall be qualified by training, experience and education in the field of welfare and social problems. The director shall be entrusted with the administration of programs involving neglected, dependent and delinquent children, child welfare, aid to dependent children, and aid to disabled persons and shall administer and be in control of the Iowa juvenile home, the state training ~~schools~~ school, and other related programs established for the general welfare of families, adults and children as directed by the commissioner.

Sec. 18. Section 218.1, subsections 9 through 13, Code 1981, are amended to read as follows:

9. ~~Mitchellville Training School~~ Iowa Juvenile Home.

10. ~~Juvenile Home~~ Iowa Correctional Institution For Women.

11. ~~Women's~~ Men's Reformatory.

12. ~~Men's Reformatory~~ State Penitentiary.

13. ~~State Penitentiary~~ Men's Medium Security Correctional Facility at Rockwell City.

Sec. 19. Section 218.3, subsection 1, Code 1981, is amended to read as follows:

1. The director of the division of child and family services of the department of social services shall have primary authority and responsibility relative to the following institutions: ~~Iowa veterans home, the Mitchellville training school,~~ the ~~Eldora~~ state training school, and the Iowa juvenile home.

Sec. 20. Section 218.9, unnumbered paragraph 3, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 27, section 3, is amended to read as follows:

The director of the division of child and family services of the department of social services, subject to the approval of the commissioner of social services shall appoint the superintendents of the juvenile home, and the ~~Eldora~~ state training school~~, and the Mitchellville training school~~.

Sec. 21. Section 218.91, Code 1981, is amended to read as follows:

218.91 BOYS TRANSFERRED FROM TRAINING SCHOOL TO REFORMATORY. The director of the division of child and family services with the consent and approval of the director of the division of corrections of the department of social services may order the transfer of male inmates of the ~~Eldora or Mitchellville~~ state training ~~schools~~ school to the men's reformatory for custodial care whenever it is determined that such action will be conducive to the welfare of the other inmates of the school from which the transfer is made. The transfer shall be effected by application in writing to the district court, or any judge thereof, of the county in which the training school is situated. Upon the granting of the order of transfer, the transfer shall take place. The county attorney of the county shall appear in support of the application. The cost of the transfer shall be paid from the funds of the training school from which the transfer is made. Subsequent to a transfer made under this section, the person transferred shall be subject to all the provisions of law and regulations of the institution to which he is transferred, and for the purposes of section 719.4 that person shall be regarded as having been committed to the institution.

Sec. 22. Section 232.52, subsection 2, paragraph e, unnumbered paragraph 1, Code 1981, is amended to read as follows:

An order transferring the guardianship of the child, subject to the continuing jurisdiction of the court for the purposes of section 232.54, to the commissioner of the department of social services for purposes of placement in the ~~Eldora~~ state training school~~, the Mitchellville training school,~~ or other facility provided that:

Sec. 23. Section 232.102, subsection 4, Code 1981, is amended to read as follows:

4. The child shall not be placed in the ~~Iowa~~ state training school ~~for boys or the Iowa training school for girls~~.

Sec. 24. Section 232.127, subsection 7, Code 1981, is amended to read as follows:

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~~ state training school ~~for boys or the Iowa training school for girls~~ or other secure facility.

Sec. 25. Section 242.1, Code 1981, is amended to read as follows:

242.1 OFFICIAL DESIGNATION. The ~~state~~ training school for juvenile delinquents at Eldora and the unit for delinquent juveniles at the Iowa juvenile home at Toledo shall together be known as the "~~Eldora~~ State Training School". ~~The state training school at Mitchellville shall be known as the "Mitchellville Training School".~~ For the purpose of this chapter the word "director" or "state director" shall mean the director of the division of child and family services of the department of social services.

Sec. 26. Section 242.3, Code 1981, is amended to read as follows:

242.3 SALARY. The ~~salaries~~ salary of the ~~superintendents~~ superintendent of the state training ~~schools~~ school shall be determined by the state director.

Sec. 27. Section 242.4, Code 1981, is amended to read as follows:

242.4 INSTRUCTION AND EMPLOYMENT. The state director shall cause the boys and girls in ~~said schools~~ the state training school to be instructed ~~in piety and morality, in such instruction~~ on the Constitutions of the United States and of this state as is required in the common schools, and in such branches of useful knowledge as are adapted to their age and capacity, including the effect of alcoholic liquors, stimulants, and narcotics on the human system, and in some regular course of labor, either mechanical, agricultural, or manufactural, as is best suited to their age, strength, disposition, capacity, reformation, and well-being.

Sec. 28. Section 242.6, Code 1981, is amended to read as follows:

242.6 CONVICTION FOR CRIME. When a boy or girl over twelve and under seventeen years of age, of sound mind, is found guilty in the district court of any crime except murder, the court may order the child sent to the ~~Eldora or Mitchellville~~ state training school.

Sec. 29. Section 242.7, Code 1981, is amended to read as follows:

242.7 PLACING IN FAMILIES. All children committed to and received in the state training ~~schools~~ school may be placed by the department under foster care arrangements, with any persons or in families of good standing and character where they will be properly cared for and educated. The cost of foster care provided under these arrangements shall be paid as provided in sections 234.35 and 234.36.

Sec. 30. Section 242.15, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The state director may detail boys and girls, classed as trustworthy, from the state training school ~~at Eldora and at Mitchellville~~, to perform services for the state conservation commission within the state parks, state game and forest areas and other lands under the jurisdiction of ~~said~~ the commission. The conservation commission shall provide permanent housing and work guidance supervision, but the care and custody of the boys and girls so detailed shall remain under employees of the division of child and family services of the department of social services. All such programs shall have as their primary purpose and shall provide for inculcation or the activation of attitudes, skills and habit patterns which will be conducive to the habilitation of the youths involved.

Sec. 31. Section 244.3, subsection 2, Code 1981, is amended to read as follows:

2. Neglected~~,~~ or dependent ~~or delinquent~~ children committed ~~thereto~~ by the juvenile court.

Sec. 32. Section 245.1, Code 1981, is amended to read as follows:

245.1 ~~DEFINITIONS—OBJECTS~~ OFFICIAL DESIGNATION—DEFINITIONS. The state correctional facility for women at Mitchellville shall be known as the "Iowa Correctional Institution For Women". For the purpose of this chapter "director" or "state director" shall mean the director of the division of adult corrections of the department of social services.

Sec. 33. Section 245.5, Code 1981, is amended to read as follows:

245.5 OPTIONAL COMMITMENTS FOR LIFE. Any unmarried female over ten and under eighteen years of age convicted of an offense punishable by life imprisonment may be committed either to ~~one of~~ the state training ~~schools at Eldora or Mitchellville~~ school or to the ~~women's reformatory~~ Iowa correctional institution for women.

Sec. 34. Section 245.10, Code 1981, is amended to read as follows:

245.10 TRANSFER OF INMATES—COSTS. The state director in co-operation with the commissioner of the department of social services and the directors of the other divisions of the department of social services may transfer inmates from the ~~said reformatory~~ Iowa correctional institution for women to the ~~Eldora or Mitchellville~~ state training school, and from ~~either~~ the state training school to the ~~reformatory~~ Iowa correctional institution for women, whenever such course will be conducive to the welfare of the institution or school or of the other inmates ~~therein~~ in the institution or school, or of the inmates so transferred. The costs of ~~such~~ the transfer shall be paid from the funds of the institution or school from which the transfer is made.

Sec. 35. Section 245.11, Code 1981, is amended to read as follows:

245.11 EFFECT OF TRANSFER. After a transfer to either institution is made, under section 245.10, the person transferred shall be subject to all the provisions of law and regulations of the institution or school to which she is transferred, and for the purposes of section 719.4, a person transferred from the state training school ~~at Eldora or Mitchellville~~ to the ~~women's reformatory~~ Iowa correctional institution for women shall be regarded as having been committed thereto.

Sec. 36. Chapter 246, Code 1981, is amended by adding the following new section:

NEW SECTION. MEN'S MEDIUM SECURITY CORRECTIONAL FACILITY AT ROCKWELL CITY. The state correctional facility at Rockwell City shall be utilized as a medium security correctional facility for men and shall be operated by the director in accordance with the applicable provisions of this chapter.

Sec. 37. Section 690.4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

It shall be the duty of the wardens of the penitentiary and men's reformatory, and superintendents of the ~~women's reformatory~~ Iowa correctional institution for women, and the ~~Eldora~~ state training school, ~~and the Mitchellville training school,~~ to take or procure the taking of the fingerprints, and, in the case of the penitentiary, men's reformatory, and ~~women's reformatory~~ Iowa correctional institution for women only, Bertillon photographs of any person received on commitment to their respective institutions, and to forward such fingerprint records and photographs within ten days after the same are taken to the division of criminal investigation and bureau of identification, Iowa department of public safety, and to the federal bureau of investigation.

DIVISION II

Sec. 38. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 2, is amended to read as follows:

SEC. 2. There is appropriated from the general fund of the state to the Iowa college aid commission for each fiscal year of the fiscal biennium beginning July 1, 1981 and ending June 30, 1983, the following amounts, or so much thereof as may be necessary, to be used for the funding of the following programs for the purposes designated:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
1. IOWA COLLEGE AID COMMISSION		
For salaries, support, maintenance, and miscellaneous purposes	$ 317,595	$ ~~341,704~~ 343,809
2. TUITION GRANT PROGRAM		
To supplement the appropriation provided in subsection 1 of section 261.25 for tuition grants to full-time resident students attending accredited private institutions of higher education in Iowa under sections 261.9 to 261.16	$ 2,071,500	$ ~~2,750,000~~ 3,650,000
3. VOCATIONAL TECHNICAL TUITION GRANT PROGRAM		
To supplement the appropriation provided in subsection 3 of section 261.25 for tuition grants to full-time resident students in a vocational-technical program in Iowa as provided in section 261.17	$ 79,300	$ ~~100,000~~ 200,000

Sec. 39. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 8, subsection 10, is amended by adding the following new paragraph:

NEW PARAGRAPH. To be allocated to the merged area schools for training programs for employees of companies locating or expanding within Iowa	$	$ 275,000

Sec. 40. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 9, subsection 2, paragraph a, is amended to read as follows:

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	$ 92,397,351	$ ~~97,294,990~~ 98,294,990

It is the intent of the general assembly that from funds appropriated in this paragraph one million (1,000,000) dollars shall be expended during the fiscal year beginning July 1, 1982 and ending June 30, 1983 to stabilize instructional funding at the college of medicine.

Sec. 41. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 9, subsection 2, paragraph b, is amended to read as follows:

b. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes; for medical and surgical treatment of indigent patients as provided in chapter 255 ..... $ 20,819,800 $ ~~22,046,392~~ 22,211,392

Sec. 42. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 9, subsection 3, paragraph a, is amended to read as follows:

a. General university

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... $ 76,208,384 $ ~~80,161,263~~ 80,994,263

It is the intent of the general assembly that from funds appropriated in this paragraph eight hundred thirty-three thousand (833,000) dollars shall be expended during the fiscal year beginning July 1, 1982 and ending June 30, 1983 to establish additional sections of classes that are experiencing increasing enrollments.

Sec. 43. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 9, subsection 4, is amended to read as follows:

4. UNIVERSITY OF NORTHERN IOWA

For salaries, support, maintenance, equipment, and miscellaneous purposes ..... $ 29,985,397 $ ~~31,428,042~~ 31,595,042

It is the intent of the general assembly that from funds appropriated in this subsection, twenty-five thousand (25,000) dollars shall be expended each fiscal year to support stipends for graduate students in the doctoral programs.

It is the intent of the general assembly that from funds appropriated in this subsection, one hundred sixty-seven thousand (167,000) dollars shall be expended during the fiscal year beginning July 1, 1982 and ending June 30, 1983 to establish additional sections of courses that are experiencing increasing enrollments.

Sec. 44. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 16, is amended to read as follows:

SEC. 16. Notwithstanding section 267.8, Code 1981, the standing appropriation in that section is limited to one hundred thousand (100,000) dollars for the fiscal year beginning July 1, 1981 and ending June 30, 1982 and is limited to one hundred ~~fifty thousand (150,000)~~ ninety-four thousand five hundred (194,500) dollars for the fiscal year beginning July 1, 1982 and ending June 30, 1983.

Sec. 45. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 8, section 18, unnumbered paragraph 1, is amended to read as follows:

Notwithstanding section 285.2, unnumbered paragraph 2, Code 1981, the standing appropriation in that section is limited to four million four hundred thirty-seven thousand (4,437,000) dollars for the fiscal year beginning July 1, 1981 and ending June 30, 1982 and to ~~four million six hundred fifty thousand nine hundred (4,650,900)~~ five million four hundred fifty thousand nine hundred (5,450,900) dollars for the fiscal year beginning July 1, 1982 and ending June 30, 1983.

Sec. 46. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the sum of one million two hundred seventy-seven thousand three hundred thirty-seven (1,277,337) dollars, or as much thereof as may be necessary, for the purchase of fuel and electricity for the institutions under its control.

Sec. 47. There is appropriated from the general fund of the state to the school budget review committee for the fiscal year beginning July 1, 1982 and ending June 30, 1983 the sum of two hundred thousand (200,000) dollars, or so much thereof as is necessary, to be used for grants to public schools and for nonpublic school pupils for special instruction for non-English-speaking students as provided in section 280.4 in section 48 of this Act.

Sec. 48. Section 280.4, subsection 1, Code 1981, is amended to read as follows:

1. The board of directors of a school district may submit an application to the school budget review committee for funds provided by ~~Acts of the Sixty-eighth General Assembly, chapter 13, section 7, subsection 10~~ section 47 of this Act, for instruction in the English language, a transitional bilingual, or other special instruction program when support for the program from other federal, state or local sources is not available or is inadequate. The department of public instruction shall review all applications for funding and provide recommendations to the school budget review committee regarding their disposition. The school budget review committee shall not grant funds to a public school for instruction in the English language, a transitional bilingual or other special instruction program unless the program offered by the public school is available to nonpublic school students in the district.

DIVISION III

Sec. 49. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 2, subsection 4, is amended to read as follows:

4. BOARD OF PAROLE

For salaries and support of not more than ~~fourteen~~ fifteen full-time equivalent positions annually, maintenance, and miscellaneous purposes	$ 311,247	$ ~~324,440~~ 341,855

Thirty-two thousand four hundred (32,400) dollars of the funds appropriated under this subsection for each fiscal year of the biennium shall be available to the board of parole only for the purpose of providing salaries and support for two additional members of the board of parole if the two additional members are approved by the general assembly for each fiscal year of the biennium.

Sec. 50. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 4, subsection 5, is amended to read as follows:

5. LICENSING AND CERTIFICATION DIVISION

For salaries and support of not more than ~~sixteen~~ eighteen full-time equivalent positions annually, rent, maintenance, and miscellaneous purposes	$ 525,068	$ ~~542,648~~ 611,478

Of the funds appropriated under this subsection for the fiscal year beginning July 1, 1982, and ending June 30, 1983, sixty-one thousand seven hundred thirty (61,730) dollars is appropriated to the board of dental examiners, five thousand (5,000) dollars is appropriated to the board of physical and occupational therapy examiners, and two thousand one hundred (2,100) dollars is appropriated to the board of mortuary science examiners.

The licensing and certification division shall prepare estimates of projected revenues to be generated by the licensing, certification, and examination fees of each board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to each board. Each board shall annually review and adjust its schedule of fees so that, as nearly as possible, projected revenues equal projected costs and any imbalance in revenues and costs in a fiscal year is offset in a subsequent fiscal year.

Sec. 51. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the state board of regents for the specialized child health services program at the university of Iowa hospitals, seventeen thousand (17,000) dollars, or so much thereof as is necessary, for the phenylketonuria program to be used only to cover the cost of lofenalac. The specialized child health services program shall develop a sliding fee schedule to determine the amount of payments to be made by persons receiving lofenalac. The specialized child health services program shall report to the joint human resources appropriations subcommittee by January 31, 1983, regarding the status of the phenylketonuria program.

Sec. 52. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 4, subsection 7, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For salaries and support of not more than ~~forty-eight point forty-five~~ forty-nine full-time equivalent positions annually, maintenance, and miscellaneous purposes	$	1,445,824	$ ~~1,484,092~~ 1,734,092

Sec. 53. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 4, subsection 7, paragraph d, subparagraphs (1) and (2), are amended to read as follows:

(1) Homemaker-home health aide program .	$	1,562,207	$ ~~1,621,862~~
(2) Public health nursing program	$	1,640,019	$ ~~1,719,098~~

Sec. 54. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 4, subsection 7, is amended by adding the following new paragraphs:

NEW PARAGRAPH. PUBLIC HEALTH NURSING PROGRAM.

For grants to local boards of health for the public health nursing program	$		$ 1,719,098

Funds appropriated under this paragraph shall be used to maintain and expand the existing public health nursing program for elderly and low-income persons with the objective of preventing or reducing inappropriate institutionalization. The funds shall not be used for any other purpose. As used in this paragraph, "elderly person" means a person who is sixty years of age or older and "low-income person" means a person whose income and resources are below the guidelines established by the department.

The department may retain not more than one percent of the amount appropriated under this paragraph to be used to pay the costs of administering the public health nursing program. The remainder of the amount appropriated shall be allocated for use in the counties of the state. 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. 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 and low-income persons living in that county in relation to the total number of elderly and low-income persons living in the state.

In order to receive allocations under this paragraph, the local board of health having jurisdiction, after consultation with other in-home health care provider agencies in the jurisdiction, shall prepare a proposal for the use of the allocated funds available for that jurisdiction that will provide the maximum benefits of expanded public health nursing care to elderly and low-income persons in the jurisdiction. The proposal 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 a nonprofit nurses' association, an independent nonprofit agency, a suitable local governmental

body, or a person as defined in section 4.1, subsection 13, to use the allocated funds to provide public health nursing care. Local boards of health shall make an effort to subcontract with agencies that are currently providing services to prevent duplication of services.

If by July 30, 1982, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds appropriated under this paragraph an unallocated pool. The department shall prior to December 31, 1982, reallocate the funds in the unallocated pool among the counties in which the department has concluded contracts under this paragraph. The reallocation shall be made to those counties in substantially the same manner as the original allocations. The reallocated funds are available for use in those counties during the period beginning January 1, 1983, and ending June 30, 1983.

The department shall adopt rules defining eligibility for public health nursing care paid for from funds appropriated by this paragraph. The rules shall require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the care.

The department shall evaluate the success of the public health nursing program. The evaluation shall include the extent to which the program reduced or prevented inappropriate institutionalization, the extent to which the program increased the availability of public health nursing care to elderly and low-income persons, and the extent of public health nursing care provided to elderly and low-income persons. The department shall submit a report of the evaluation to the governor and the general assembly by January 10, 1983.

NEW PARAGRAPH. HOMEMAKER-HOME HEALTH AIDE PROGRAM.

For grants to county boards of supervisors for the homemaker-home health aide program	$	$ 6,387,862

Funds appropriated under this paragraph shall be used to provide homemaker-home health aide services with emphasis on services to elderly and low-income persons and children and adults in need of protective services with the objective of preventing or reducing inappropriate institutionalization. In addition, up to fifteen percent of the funds appropriated under this paragraph may be used to provide chore services. The funds shall not be used for any other purposes. As used in this paragraph:

(1) "Chore services" means services provided to individuals or families, who, due to absence, incapacity, or illness, are unable to perform certain home maintenance functions. The services include but are not limited to yard work such as mowing lawns, raking leaves, and shoveling walks; window and door maintenance such as hanging screen windows and doors, replacing window panes, and washing windows; and minor repairs to walls, floors, stairs, railings, and handles.

(2) "Elderly person" means a person who is sixty years of age or older.

(3) "Homemaker-home health aide services" means services intended to enhance the capacity of household members to attain or maintain the independence of the household members and provided by trained and supervised workers to individuals or families, who, due to the absence, incapacity, or limitations of the usual homemaker, are experiencing stress or crisis. The services include but are not limited to essential shopping, housekeeping, meal preparation, child care, respite care, money management and consumer education, family management, personal services, transportation and providing information, assistance, household management and learning experiences.

(4) "Low-income person" means a person whose income and resources are below the guidelines established by the department.

(5) "Protective services" means those homemaker-home health aide services intended to stabilize a child's or an adult's residential environment and relationships with relatives, caretakers, and other persons or household members in order to alleviate a situation involving abuse or neglect or to otherwise protect the child or adult from a threat of abuse or neglect.

The amount appropriated under this paragraph shall be allocated for use in the counties of the state. Fifteen percent of the amount shall be divided so that an equal amount is available for use in each county in the state. Of the remaining amount each county shall be allocated an amount equal to seventy-five percent of state expenditures for homemaker services in that county during the fiscal year beginning July 1, 1981, and ending June 30, 1982. After allocation of the seventy-five percent to each county, the following percentages of the remaining amount shall be allocated to each county according to that county's proportion of residents with the following demographic characteristics compared to all state residents with the same demographic characteristics: sixty percent according to the number of elderly persons living in the county; twenty percent according to the number of low-income persons living in the county; and twenty percent according to the number of substantiated cases of child abuse in the county during the 1980-1981 fiscal year.

It is intended that the seventy-five percent allocation, based on state expenditures for homemaker services in each county during the 1981-1982 fiscal year, shall be reduced to fifty percent for the 1983-1984 fiscal year and to twenty-five percent for the 1984-1985 fiscal year. For the 1985-1986 fiscal year it is intended that no allocation be made based on those state expenditures for homemaker services but that the entire amount appropriated be allocated by dividing fifteen percent of the amount equally among the counties and by dividing the remaining amount according to the percentages and demographic characteristics stipulated above.

In order to receive allocations under this paragraph, the county board of supervisors, after consultation with the local boards of health, county board of social welfare, area agency on aging advisory council, local office of the department of social services, and other in-home health care provider agencies in the jurisdiction, shall prepare a proposal for the use of the allocated funds available for that jurisdiction that will provide the maximum benefits of expanded homemaker-home health aide services to elderly and low-income persons and children and adults in need of protective services in the jurisdiction. The proposal may provide that a maximum of fifteen percent of the allocated funds will be used to provide chore services. The proposal shall include a statement assuring that children and adults in need of protective services are given priority for homemaker-home health aide services and 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 county board of supervisors or a governmental body designated by the county board of supervisors. The county board of supervisors or its designee may subcontract with a nonprofit nurses' association, an independent nonprofit agency, the department of social services, a suitable local governmental body, or a person as defined in section 4.1, subsection 13, to use the allocated funds to provide homemaker-home health aide services and chore services providing that the subcontract requires any service provided away from the home to be documented in a report available for review by the department.

If by July 30, 1982, the department is unable to conclude contracts for use of the allocated funds in a county, the department shall consider the unused funds appropriated under this paragraph an unallocated pool. The department shall also identify any allocated funds which the counties do not anticipate spending during the fiscal year ending June 30, 1983. If the anticipated excess funds to any county are substantial, the department and the county may agree to return those excess funds, if the funds are other than program revenues, to the

department, and if returned, the department shall consider the returned funds a part of the unallocated pool. The department shall prior to February 1, 1983, reallocate the funds in the unallocated pool among the counties in which the department has concluded contracts under this paragraph.

The department shall adopt rules defining eligibility for homemaker-home health aide services and chore services paid for from funds appropriated by this paragraph. The rules shall require each local agency receiving funds to establish and use a sliding fee scale for those persons able to pay for all or a portion of the cost of the services and shall require the payments to be applied to the cost of the services. The department shall also adopt rules for standards regarding training, supervision, recordkeeping, appeals, program evaluation, cost analysis, and financial audits, and rules specifying reporting requirements.

The department shall evaluate the success of the homemaker-home health aide program. The evaluation shall include a description of the program and its implementation, the extent of local participation, the extent to which the program reduced or prevented inappropriate institutionalization, the extent to which the program provided or increased the availability of homemaker-home health aide services to elderly and low-income persons and children and adults in need of protective services, any problems and recommendations concerning the program, and an analysis of the costs of services across the state. The department shall submit a report of the evaluation to the governor and the general assembly by January 10, 1983.

Sec. 55. Section 135.11, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Administer the statewide public health nursing and homemaker-home health aide programs by approving grants of state funds to the local boards of health and the county boards of supervisors and by providing guidelines for the approval of the grants and allocation of the state funds.

Sec. 56. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 5, section 6, subsections 1 and 2, are amended to read as follows:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
1. For salaries and support of not more than ~~fourteen~~ nineteen point one full-time equivalent positions annually, maintenance, and miscellaneous purposes	$ 142,967	$ ~~0~~ 142,968
2. For program grants	$ 2,361,150	$ ~~0~~ 2,361,150

Sec. 57. The commission on substance abuse and the mental health and mental retardation commission shall establish a memorandum of understanding including provisions to coordinate compatible administrative activities. These activities include but are not limited to the utilization of management information systems, local and statewide fiscal and program planning, licensure and accreditation of community programs, and provision of training and technical assistance to local programs and governmental subdivisions.

The memorandum shall be developed by the commissions in consultation with the legislative fiscal bureau and a copy of the memorandum shall be sent to the legislative fiscal director by October 1, 1982. The legislative fiscal bureau shall report to the joint human resources and corrections and mental health appropriations subcommittees during the 1983 Session of the Seventieth General Assembly regarding the status of the memorandum and the coordination of activities.

Sec. 58. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 9, section 14, subsection 1, paragraph b, is amended to read as follows:

b. For the fiscal year beginning July 1, 1982, ~~$86,999,000~~ $86,599,000.

Sec. 59. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 9, section 26, subsection 4, is amended to read as follows:

4. To the substance abuse treatment facilities receiving substance abuse program grants as provided in section 125.25	$ 200,000	$ 400,000

The state comptroller shall allocate and distribute the funds appropriated by this subsection to each local substance abuse treatment facility in the same proportion that the substance abuse treatment facility's annual payroll for its employees for the fiscal year ending June 30, 1981 is to the annual payroll for the employees of all local substance abuse treatment facilities receiving substance abuse program grants for that fiscal year. Moneys received by a local substance abuse facility under this subsection shall be used to pay the state's share of the authorized salary increases for the local substance abuse program employees for the designated fiscal years.

DIVISION IV

Sec. 60. Acts of the Sixty-ninth General Assembly, Second Extraordinary 1981 Session, chapter 3, section 24, is amended to read as follows:

SEC. 24. NEW SECTION. TAX IMPOSED. For the privilege of operating railway vehicles in this state, an excise tax is imposed at the rate of three cents per gallon beginning October 1, 1981 and is imposed at the rate of eight cents per gallon beginning July 1, 1982 upon the use of fuel for the propulsion of a railway vehicle within the state. The tax attaches at the time of use and shall be paid monthly to the department by the railroad company using the fuel. ~~Fuel~~ At such time the Iowa railway finance authority deems necessary, it may require that fuel dispensed in this state shall only be through meters which have been approved for accuracy by the ~~department of agriculture~~ Iowa railway finance authority and sealed by the ~~department~~ authority. The authority may contract the responsibility for approving and sealing meters to the department of agriculture. Fuel dispensed through sealed meters shall be presumed taxable unless the railroad company proves otherwise.

Sec. 61. NEW SECTION. PAYMENT OF TAX. Notwithstanding the requirement for monthly payment of the excise tax in Acts of the Sixty-ninth General Assembly, Second Extraordinary 1981 Session, chapter 3, sections 24 and 26, if it is reasonably expected, as determined by rules prescribed by the director, that a railroad company's annual tax liability will not exceed one thousand two hundred dollars for a calendar year, the railroad company may request and the director may grant permission, in lieu of the requirement for monthly payment of tax, that the tax shall be payable on a calendar year basis. The tax is due and payable no later than January 31 following each calendar year in which the railroad company carried on business.

Sec. 62. The provisions of Acts of the Sixty-eighth General Assembly, 1979 Session, chapter 12, section 6, subsection 3, shall apply to the state fish and game protection fund for the fiscal biennium beginning July 1, 1981 and ending June 30, 1983. This section is to be retroactive to July 1, 1981.

Sec. 63. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 12, section 7, subsection 1, is amended to read as follows:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
1. For salaries, support, maintenance, and miscellaneous purposes	$ 2,222,351	$ ~~2,285,725~~ 2,393,225

Sec. 64. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 12, section 9, subsection 1, unnumbered paragraph 1, is amended to read as follows:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
For salaries, support, maintenance, and for miscellaneous purposes	$ 1,961,402	$ ~~2,070,190~~ 2,182,413

Sec. 65. It is the intent of the general assembly that the fee schedule required by section 455B.32, subsection 6, be implemented. The fees shall be deposited in the general fund of the state.

Sec. 66. There is appropriated from the general fund of the state to the Iowa natural resources council for the fiscal year beginning July 1, 1982 and ending June 30, 1983 the amount of forty-eight thousand (48,000) dollars, or so much thereof as is necessary for the salary, support, and maintenance of the Missouri river coordinator and the support of the Missouri basin states association and the upper Mississippi river basin association.

Sec. 67. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 12, section 3, subsection 4, is amended by striking the subsection.

Sec. 68. There is appropriated from the general fund of the state to the Iowa state water resource research institute for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the sum of one hundred thirty-five thousand (135,000) dollars or so much thereof as is necessary for research approved by the panel provided in section 69 of this Act.

Sec. 69. A panel is established to advise the Iowa state water resource research institute on the areas of research to be conducted with the funds appropriated by section 68 of this Act. The panel is composed of the administrative head of the following agencies or that person's representative: Iowa geological survey, Iowa natural resources council, department of soil conservation, energy policy council, and department of agriculture. The representative of the Iowa geological survey shall serve as the chairperson and call the meetings of the panel.

DIVISION V

Sec. 70. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 6, section 2, subsection 3, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, and other operational purposes	$ 15,786,931	$ ~~16,539,864~~ 16,719,864

Sec. 71. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 6, section 2, subsection 13, is amended to read as follows:

13. IOWA REAL ESTATE COMMISSION

For salaries, support, maintenance, rental fees, and other operational purposes	$ 256,980	$ ~~269,168~~ 272,668

Sec. 72. There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the sum of twenty-five thousand (25,000) dollars, or so much thereof as may be necessary, to conduct a study of the stress days and grain price differentials for use in determining agricultural productivity for purposes of valuing agricultural land.

DIVISION VI

Sec. 73. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 1, subsection 1, is amended to read as follows:

1. OFFICE OF THE STATE APPELLATE DEFENDER

For deposit in the appellate defender operating account ..... $ 100,000 $ 50,000

~~Funds appropriated by this subsection to the office of the appellate defender are appropriated only if the office of the appellate defender is in existence for the fiscal year beginning July 1, 1981 and ending June 30, 1982.~~

Sec. 74. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 1, subsection 2, is amended to read as follows:

2. IOWA STATE ARTS COUNCIL

For salaries, support, maintenance, and miscellaneous purposes including funds to match federal grants ..... $ 291,113 $ ~~305,150~~ 343,150

Sec. 75. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 1, subsection 3, paragraphs a and b, are amended to read as follows:

a. For the general office of attorney general for salaries, support, maintenance, and miscellaneous purposes ..... $ 2,191,472 $ ~~2,298,361~~ 2,335,217

b. Prosecuting attorney training program

For salaries, support, maintenance and miscellaneous purposes which funds shall be used to attract federal and county funding .... $ 59,058 $ ~~62,164~~ 70,164

Sec. 76. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 1, subsection 3, paragraph d, is amended by striking the paragraph.

Sec. 77. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 2, subsection 1, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH.

c. STATEHOUSE RENOVATION

For the payment of statehouse renovation costs ..... $ $ 600,000

Notwithstanding other provisions of this section or section 8.33, unencumbered funds appropriated by this paragraph shall be available and shall not revert to the general fund of the state until July 1, 1986.

Sec. 78. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 6, subsection 1, unnumbered paragraph 2, is amended by striking the unnumbered paragraph.

Sec. 79. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 7, subsection 1, is amended to read as follows:

1. BUREAU OF LABOR

For salaries, support, maintenance, and miscellaneous purposes ..... $ 1,214,659 $ ~~1,273,035~~ 1,342,885

Sec. 80. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 7, subsection 8, paragraph a, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (1) For the intergovernmental assistance function which includes the community services block grant, community development block grant, local government assistance, and city development board ..... $ $ 372,450

NEW SUBPARAGRAPH. (2) For the interagency planning and coordination function which includes the state occupational information coordinating committee, highway safety office, statistical analysis center, and office for state resource planning which includes staff of not less than two full-time equivalent positions and necessary support with funds appropriated under this subparagraph for the Iowa council for children, youth, and families ..... $ $ 1,099,850

NEW SUBPARAGRAPH. (3) For the administrative function which includes the state demographic center and federal funds clearinghouse ..... $ $ 129,400

[*It is the intent of the general assembly that in expending the funds appropriated under subparagraphs 1 through 3, the office for planning and programming shall comply with recommendation 5 of the legislative fiscal bureau program evaluation of the office for planning and programming, dated February, 1982.] Of the funds appropriated under subparagraph 3, seven thousand six hundred (7,600) dollars shall be used to pay the mileage, meals or other necessary expenses of the advisory commission on intergovernmental relations.

Sec. 81. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 7, subsection 8, paragraph e, is amended to read as follows:

e. For the juvenile victim restitution program pursuant to section 7A.10 ..... $ 100,000 $

Notwithstanding other provisions of this section or section 8.33, unencumbered funds appropriated by this paragraph shall be available and shall not revert to the general fund of the state until July 1, 1983.

Sec. 82. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 10, section 7, subsection 6, is amended to read as follows:

6. IOWA MERIT EMPLOYMENT DEPARTMENT

For the general office for salaries, maintenance, and miscellaneous purposes .... $ 1,176,346 $ ~~1,158,526~~ 1,235,786

It is the intention of the general assembly that the Iowa merit employment department may add an additional full-time equivalent position for the fiscal year beginning July 1, 1982 for administration of testing services throughout the state to replace the testing services previously provided for the Iowa merit employment department by the Iowa department of job services.

Sec. 83. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 189, section 6, unnumbered paragraph 2, is amended to read as follows:

* Item veto; see message at end of this Act

There is appropriated from the state general fund to the supreme court for the fiscal year commencing July 1, 1982 and ending June 30, 1983, the sum of one hundred fifty thousand (150,000) dollars or so much thereof as is necessary to fund the additional judgeships created by section 1 of this Act. There is appropriated from the state general fund to the supreme court for the fiscal year commencing July 1, 1982 and ending June 30, 1983, the sum of ~~eight~~ one million two hundred forty-five thousand (1,245,000) dollars or so much thereof as is necessary to fund the expenses of operation of the offices of district court administrators as provided in section 605.35. However, notwithstanding section 605.35, the counties of a judicial district in which an office of district court administrator is established shall furnish the district court administrator with appropriate office space and related utilities. The cost of furnishing the office space and related utilities shall be apportioned among the counties in the judicial district in the same manner as the expenses of shorthand reporters are apportioned under section 605.9. Except for the cost of office space and related utilities, a county shall not contribute to the salaries, support, maintenance, or any other direct or indirect cost for the office of district court administrator. As used in this paragraph, "related utilities" mean heating, cooling, electricity and water services. Of the sum appropriated to fund the expenses of the operation of the offices of district court administrators, three hundred twenty thousand (320,000) dollars shall be used to employ sixteen law clerks.

Sec. 84. DISPUTE RESOLUTION PROGRAMS.

1. There is appropriated from the general fund of the state to the office of the court administrator of the judicial department for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the sum of one hundred thousand (100,000) dollars or so much thereof as necessary for the payment of grants authorized in subsection 2. The court administrator may expend an amount not exceeding six thousand (6,000) dollars for administrative expenses.

2. Except for administrative expenses, the funds appropriated under subsection 1 shall be used for grants to establish or improve dispute resolution programs that are designed to provide mediation and conciliation services for the parties to a dispute. The dispute resolution programs shall encourage and enable the parties to a dispute to achieve a mutually satisfactory resolution of the dispute in an informal and nonadversary setting that assures confidentiality to the parties.

3. A county, city or nonprofit corporation may submit an application to the court administrator of the judicial department for a dispute resolution program grant on forms prescribed and furnished by the administrator. The court administrator with the advice of the judicial coordinating committee established by the supreme court shall allocate the funds to the dispute resolution programs that provide nonjudicial resolution of disputes at the community or county level. At least twenty-five percent of the amount budgeted for the annual operation of a newly-established dispute resolution program or that portion of a dispute resolution program which is improved shall be obtained from sources other than the grant provided under this section. Moneys appropriated under this section shall not be used to fund that portion of a dispute resolution program established before the effective date of this Act.

4. The court administrator shall submit a progress report on the operation of the dispute resolution programs funded under this section to the senate state government appropriations subcommittee and the house state departments appropriations subcommittee prior to February 1, 1983.

Sec. 85. LEGAL SERVICES CORPORATION FUNDING STUDY.

1. The office of the governor shall conduct a study of the effect of the loss of federal funds on the legal services provided by the legal services corporation. The office of the governor may participate in the conduct of the study. The study shall include but not be limited to the following:

a. An examination of the efficiency of the legal services corporation.

b. An examination of the feasibility of attaching a client's income or assets for services rendered.

c. Consideration of alternative sources of funds for legal services to low-income persons.

The office of the governor shall submit a report of the study to the state government appropriations subcommittee before February 1, 1983.

2. There is appropriated from the general fund of the state to the office of the governor for the fiscal year beginning July 1, 1982, and ending June 30, 1983, the sum of ten thousand dollars or so much thereof as necessary to conduct the study as provided in subsection 1.

DIVISION VII

Sec. 86. COMMUNITY WORK PROGRAM FOR UNEMPLOYED PARENTS. The department of social services shall establish a community work program in each county for unemployed parents for the fiscal year beginning July 1, 1982, and ending March 31, 1983 by contracting at reasonable cost with county boards of supervisors or another local organization designated by both the county board of supervisors and the department of social services. At the time of determining eligibility for the unemployed parents program under the aid to families with dependent children program pursuant to section 91 of this Act, the department of social services shall determine whether the principal wage earner is eligible for work under the community work program. The county boards of supervisors or the designated local organizations shall work with community groups concerned with the delivery of local services to develop work assignments in order to fully utilize public resources to meet public needs and to allow unemployed parents to contribute to the betterment of the community. The county board of supervisors or the designated local organizations shall assign participants in the community work program to work in accordance with applicable federal regulations. The work assignments may be with governmental entities, including school districts, and with nonprofit agencies and organizations. The work assignments shall maintain the dignity of the participants and shall be of benefit to the community.

[*The state shall provide workers' compensation benefits under chapters 85, 85A, 85B, and 86 to participants in the community work program and those chapters shall be exclusive, compulsory, and obligatory upon the state and the participants in the community work program.]

Sec. 87. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 1, is amended to read as follows:

SECTION 1. There is appropriated from the general fund of the state for each fiscal year of the biennium beginning July 1, 1981, and ending June 30, 1983, to the department of social services for general administration, including salaries and support, maintenance, and miscellaneous purposes the following amounts, or so much thereof as may be necessary:

1981-1982 Fiscal Year	1982-1983 Fiscal Year
$ 7,000,000	$ ~~7,000,000~~ 6,509,000

Sec. 88. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 2, unnumbered paragraph 5, is amended to read as follows:

The reorganization required by this subsection becomes effective on July 1, 1982, unless the joint social services appropriations subcommittee recommends an alternative plan to the general assembly during the 1982 session of the general assembly. If the department determines that an alternative reorganization plan would best serve its clients, the department

* Item veto; see message at end of this Act

shall report the alternative plan to the joint social services appropriations subcommittee by February 1, 1982:

	1981-1982 Fiscal Year	1982-1983 Fiscal Year
	$ 15,779,000	$ ~~15,779,000~~ 14,674,700

Sec. 89. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 2, subsection 1, is amended by striking the subsection.

Sec. 90. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For aid to families with dependent children .	$ 55,327,000	$ ~~55,327,000~~ 54,554,000

Sec. 91. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 1, paragraph c, is amended by striking the paragraph and inserting in lieu thereof the following:

c. For the fiscal period beginning July 1, 1982, and ending March 31, 1983, the department of social services shall provide benefits under an unemployed parent program under the aid to families with dependent children program. In determining the amount of a grant under the program, the spouse of an unemployed parent shall be excluded from the eligible group. Medical assistance shall be available to the spouse of an unemployed parent. The department of social services shall request a waiver from the United States department of health and human services to limit grants under the unemployed parent program to six months for any eligible group.

The department of social services shall require income maintenance workers, at the time of their review of unemployed parents' monthly reports, to monitor the job search, application, and acceptance requirements under the community work program which shall at a minimum require unemployed parents to meet the job search, application, and acceptance requirements necessary to receive unemployment compensation benefits under the Iowa administrative code 370-4.22(1)"c" and section 96.5, subsection 3. However, only the suitable work reference in section 96.5, subsection 3, paragraph a, subparagraph (4) shall apply. In addition, the unemployed parents shall accept work assignments established under the community work program for unemployed parents under section 86 of this Act.

Sec. 92. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 1, is amended by adding the following new paragraphs:

NEW PARAGRAPH. The department of social services shall establish a new schedule of basic needs, effective July 1, 1982, under the aid to families with dependent children program, which will increase by fifteen percent the schedule of basic needs, in effect for the fiscal year ending June 30, 1982, for eligible groups of two or more persons. The level of grant payments under the aid to families with dependent children program shall not be increased.

NEW UNNUMBERED PARAGRAPH. The department of social services shall provide current recipients under the aid to families with dependent children program with opportunities to receive instruction on retrospective budgeting and monthly reporting and shall provide applicants under the program with individualized instruction on retrospective budgeting and monthly reporting during the application process.

NEW PARAGRAPH. The department of social services shall request a waiver from the United States department of health and human services to exclude from the monthly reporting requirements those recipients under the aid to families with dependent children program who have no income or a very constant income. The department shall review its monthly

reporting forms for readability, clarity, and simplicity and modify the forms to attain efficiency. The department shall account for any cost savings attributable to the waiver or the form modifications and shall report the cost savings to the joint social services appropriations subcommittee by February 1, 1983.

NEW PARAGRAPH. Of the funds appropriated in this subsection for the fiscal year beginning July 1, 1982, and ending June 30, 1983, three hundred thirty-four thousand (334,000) dollars, or so much thereof as is necessary, is appropriated to the department of social services to establish a coordinated manpower services demonstration project for recipients of aid to families with dependent children in two of the department's districts. One demonstration project shall be located in Sioux City and one shall be located in Marshalltown. The department shall consult with the department of job service, knowledgeable economists, community college educators and administrators, and other knowledgeable persons concerning the availability of job training, job search skill training, assistance in job placement, mass transportation, and child care to potential participants in a demonstration project.

In addition to the basic grant under the aid to families with dependent children program, a recipient shall receive a monthly allowance for costs incurred while participating in a community work experience demonstration project. The allowance shall be twenty-five dollars plus fifteen percent of the recipient's basic grant. However, the allowance shall not exceed ninety-five dollars and may be reduced to take absences or partial participation into consideration. The department shall report the results of the project to the general assembly in January, 1983.

*Sec. 93. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, unnumbered paragraph 1, is amended to read as follows:

For medical assistance, provided that the funds appropriated in this subsection shall not be transferred or used for any other purpose than specified in this subsection, notwithstanding section 8.39, 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 under any of the following conditions:

Sec. 94. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, paragraph e, is amended to read as follows:

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled	$ 101,235,000	$ ~~100,206,000~~ 113,909,000

Medical assistance shall be made available, beginning July 1, 1982 and ending March 31, 1983, to children under twenty-one years of age who meet all eligible criteria of the aid to families with dependent children program except that the children are not deprived of parental support.

Of the funds appropriated in this subsection for the fiscal year beginning July 1, 1982, and ending June 30, 1983, thirty thousand (30,000) dollars, or so much thereof as is necessary, shall be expended by the department of social services for additional staffing in the third party liability unit of the bureau of medical services. The department shall conduct investigations to determine the availability of workers' compensation, medicare, major medical insurance, and other third party liability sources for payment of medical assistance claims. The department shall pursue recovery of funds from third party liability sources when the sources are available and shall pursue benefits from insurance policies carried by absent parents through coordination with the child support recovery program. State's share of funds recouped through these efforts shall be returned to the medical assistance program.

* Item veto; see message at end of this Act

Sec. 95. There is appropriated from the general fund of the state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services four hundred sixty thousand (460,000) dollars, or so much thereof as is necessary, for supplementing funds appropriated for the medical assistance program.

Sec. 96. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, unnumbered paragraph 7, is amended to read as follows:

~~Pharmacists~~ Pharmacies in this state ~~who~~ which reduce the charges of prescription drugs to persons participating in private, third-party payor prescription drug insurance or benefit plans or to the insurance or benefit plans shall also reduce by the same amount the charges to persons participating in the medical assistance program or to the program. For the purpose of this unnumbered paragraph, the reduction of charges includes the discounting of deductibles or coinsurance payable by plan participants or the distribution of free merchandise directly or indirectly through coupon or rebate programs to plan participants. The board of pharmacy examiners shall adopt rules under section 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph b to insure that pharmacists reduce charges by the same amount to both third-party payors and the medical assistance program and that co-payment requirements are applied equally to both third-party payors and the medical assistance program. The rules shall become effective immediately upon filing, unless a later effective date is specified in the rules.

Effective October 1, 1982, a professional dispensing fee reimbursement of fifty cents per prescription, in addition to the ordinary professional dispensing fee reimbursement, shall be made for the selection of equivalent drug products which are less expensive than those prescribed by the physician and which result in a cost savings to the medical assistance program of at least one dollar and fifty cents per prescription.

Sec. 97. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, unnumbered paragraph 5, is amended to read as follows:

Beginning July 1, 1981, the basis for establishing the maximum medical assistance reimbursement rate for intermediate care facilities shall be the seventy-fourth percentile of all facilities' per diems as calculated from the June 30, 1981 compilation of unaudited financial and statistical reports. This compilation is composed of facility cost reports received prior to May 1, 1981. If the department of social services determines that adequate funding is available, the department may, on January 1, ~~1982~~ 1983, establish the maximum reimbursement rate for intermediate care facilities at the seventy-fourth percentile of all facilities' per diems as calculated from the December 31, ~~1981~~ 1982 compilation of unaudited financial and statistical reports. This compilation is composed of facility cost reports received prior to November 1, ~~1981~~ 1982.

Sec. 98. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Effective October 1, 1982, medical assistance reimbursement rates for hospitals shall be established on a prospective basis. The department of social services shall not change the method of reimbursement for the state mental health institutes.

NEW UNNUMBERED PARAGRAPH. Medical assistance payments shall not be made for inpatient hospital services which can effectively and safely be performed on an outpatient basis.

NEW UNNUMBERED PARAGRAPH. Inpatient hospital reimbursements under the medical assistance program shall be limited to lengths of stays which do not exceed the fiftieth percentile of lengths of stays for various diagnoses and medical and surgical procedures, as

determined annually by the professional activities study for the north central region of the United States, unless utilization review determines that a longer length of stay is medically necessary.

NEW UNNUMBERED PARAGRAPH. Medical assistance payments to hospitals, skilled nursing facilities, and intermediate care facilities shall be limited to the rate applicable to the lowest level of care medically required by the patient, including the rate for residential care facilities, rather than to the level of care for which the hospital or facility is certified to provide under the medical assistance program.

NEW UNNUMBERED PARAGRAPH. The medical assistance reimbursement rate for reserve bed days for intermediate care facility residents who are hospitalized or on a home stay shall be reduced from eighty percent to seventy-five percent of the allowable audited costs for those beds, which costs shall not exceed the maximum daily reimbursement rate for intermediate care facilities under the medical assistance program.

NEW UNNUMBERED PARAGRAPH. Medical assistance reimbursement rates for physicians shall be established on the basis of statewide, prevailing physician fees and on the basis of a maximum five percent annual increase in the fees.

NEW UNNUMBERED PARAGRAPH. Notwithstanding Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, unnumbered paragraph 6, medical assistance payments for all mandatory and optional services, except for intermediate care facility services, intermediate care facility services for the mentally retarded, services provided to recipients in state mental health institutes, and medical transportation services other than ambulance services, shall be reduced by a factor of two and one-half percent. However, the two and one-half percent reduction shall not apply to reimbursements for the ingredient cost of prescription drugs or to physician reimbursements and shall not apply to hospital reimbursements beginning October 1, 1982.

NEW UNNUMBERED PARAGRAPH. The maximum co-payments allowed by federal law or regulation shall be placed on all optional services under the medical assistance program. A fixed co-payment shall be established for each optional service by computing the average or typical payment for each optional service. The co-pay requirement shall not apply to the services provided under the early and periodic screening, diagnosis, and treatment program and to services provided to recipients in hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, residential care facilities, and state mental health institutes.

NEW UNNUMBERED PARAGRAPH. Criteria for prior authorization of specified services under the medical assistance program shall be scrutinized to determine whether the current review process results in the most effective provision of needed services. If a change in the review process would be beneficial, the criteria shall be modified to change the review process or to subject additional services to prior authorization.

NEW UNNUMBERED PARAGRAPH. One or more pilot projects to provide medical assistance for in-home care to persons who would otherwise be institutionalized may be established. Before establishing a pilot project, the department of social services shall document the cost-effectiveness of the project, structure the project to be in the best interests of the persons involved, and ensure federal approval and financial participation in the establishment and operation of the project.

Sec. 99. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 3, is amended to read as follows:

3. For contractual services-medical carrier	$ 1,318,000	$	~~1,318,000~~ 1,739,000

Sec. 100. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 4, is amended to read as follows:

4. For work and training programs	$	62,000	$	~~62,000~~ 9,000

Sec. 101. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 5, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 252B.4, if federal law or regulation requires the imposition of a fee on an individual who owes a support obligation for the support collection services provided under chapter 252B to a resident parent not otherwise eligible as a public assistance recipient, the commissioner of the department of social services shall charge the individual the fee required by federal law or regulation which may be in addition to the actual amount of support owed by the individual.

Sec. 102. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 6, unnumbered paragraphs 1 and 3, are amended to read as follows:

For state supplementary assistance, including state supplementary assistance for the blind	$	6,731,000	$	~~6,731,000~~ 6,881,000

The department of social services shall increase the maximum cost-related reimbursement rate for residential care facility services to fifteen dollars per day and the flat rate to ten dollars per day. Beginning July 1, 1982, the department of social services shall establish the maximum reimbursement rate for residential care facilities utilizing the cost-related reimbursement system at the point where forty-nine percent of all state supplementary assistance recipients who are residential care facility residents are receiving full cost coverage for care. The forty-ninth percentile shall be calculated from the December 10, 1981 compilation of all allowable per diems on file. Beginning July 1, 1982, the department of social services shall increase the flat rate to ten dollars and ninety cents per day.

Sec. 103. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 8, is amended to read as follows:

8. For home-based services as allocated in paragraph a of this subsection.....	$	7,351,000	$	~~7,351,000~~ 2,837,000

a. Of the funds appropriated for home-based services by this subsection for the fiscal year beginning July 1, 1981, and ending June 30, 1982, four million seven hundred sixty-six thousand (4,766,000) dollars is appropriated for chore and homemaker services ~~for each fiscal year of the biennium~~. The department of social services shall not provide homemaker services during the ~~biennium~~ fiscal year beginning July 1, 1981, and ending June 30, 1982, to clients who are above the income and resource guidelines established by the department for adult protective services.

b. The department shall by rule define the homemaker and chore services to be delivered, the eligibility for services, and the providers delivering the services during the fiscal year beginning July 1, 1981, and ending June 30, 1982. The department shall explore with homemaker agencies the possibility of expanding purchase of service contracts to include the provision of chore services. The decision to purchase chore services should be based on the ability of an agency to provide the continuum of services at rates commensurate with the levels of service to be provided.

c. The department shall by rule develop a fee schedule~~, effective~~ for the fiscal year beginning July 1, 1981, and ending June 30, 1982, for chore services made available to clients who meet adult protective services criteria and who are above the income and resource guidelines for chore services.

Sec. 104. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 9, unnumbered paragraph 1, is amended to read as follows:

For foster care	$	17,558,000	$	~~17,558,000~~ 22,401,000

Sec. 105. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 9, is amended by adding the following new paragraphs:

NEW PARAGRAPH. For the fiscal year beginning July 1, 1982, and ending June 30, 1983, no more than fifty percent of all children in foster care funded under Title IV, Part E of the federal Social Security Act shall have been in foster care for more than twenty-four months.

NEW PARAGRAPH. In placing a child in foster care, the department of social services shall first consider placing the child in a private foster care home, unless the court orders an alternative placement or the department documents a compelling reason for an alternative placement.

Sec. 106. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 10, unnumbered paragraph 1, is amended to read as follows:

For community-based services	$	1,508,000	$	~~1,508,000~~ 1,639,000

Sec. 107. The department of social services shall study the feasibility of providing adoption services entirely through purchase of service contracts with licensed private providers and make recommendations to the general assembly by January 15, 1983. In preparing the study the department shall invite the participation of outside interested groups including private providers and interested consumers.

Sec. 108. There is appropriated from the general fund of this state for the fiscal year beginning July 1, 1982, and ending June 30, 1983, to the department of social services four million six thousand (4,006,000) dollars, or so much thereof as is necessary, for supplementation of federal social services block grant funds and for allocation to the various districts of the department of social services for the purchase of local day care services and other local services for eligible individuals and for allocation to the various counties for local administration. Federal social services block grant funds received by this state and funds appropriated in this section which are available for local administration costs and purchase of day care and other local services shall be allocated to the counties through the district offices of the department of social services. The district administrator shall advise the county boards of supervisors within the district of the funding which will be available to each county. The district administrator shall assist the counties in planning for the use of the funds and in coordinating the use of the funds among the counties in the district.

County boards of supervisors shall determine, after receiving appropriate advice from interested parties, the services which the counties wish to fund. The county boards of supervisors may choose to fund only those services which are listed as services which can be locally purchased in the fiscal year 1981-1982 state plan for the use of funds received under Title XX of the federal Social Security Act. The county boards of supervisors shall advise the district administrator by a date specified by the district administrator of those services the counties wish to fund. The county boards of supervisors shall match every three dollars of funds allocated to the counties under this section with one dollar of local funds. However, a county board of supervisors may set aside no more than four percent of the federal and state funds allocated to the county under this section for the purchase of day care services without matching the federal and state funds with local funds. If a county in the district does not use all funds allocated to the county under this section, the district administrator may transfer funds to other counties in the district. The counties shall not be responsible for client eligibility determinations, case management, or contracting with providers for services; the department of social services shall retain those responsibilities.

The department of social services shall maintain and utilize the state and district advisory committees established pursuant to Title XX of the federal Social Security Act for the purpose of providing recommendations on the allocation and uses of federal social services block grant funds received by this state during the fiscal year ending June 30, 1983.

Sec. 109. The eligibility level for services under Title XX of the federal Social Security Act, also referred to as services provided with social services block grant funds, for the fiscal year beginning July 1, 1982, and ending June 30, 1983, shall not be reduced below forty-one and two-tenths percent of the federal median income as established in the fiscal year 1981-1982 state plan for use of funds received under Title XX of the federal Social Security Act. The eligiblity* priorities for income maintenance recipients established for the fiscal year ending June 30, 1982, shall be maintained during the fiscal year ending June 30, 1983. However, if the social services block grant funds received from the federal government are less than the amounts appropriated in Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2477, division III for the fiscal year beginning July 1, 1982, and ending June 30, 1983, the eligibility level and priorities established in this section shall be adjusted by the department of social services in accordance with the procedure for reduced federal funds in Acts of the Sixty-ninth General Assembly, 1982 Session, House File 2477, division VI.

The department of social services shall conduct a public hearing in each district of the department of social services and report to the legislative council before making any adjustments required by this section.

Sec. 110. Beginning on and after July 1, 1982, the department of social services shall limit the annual inflation and cost-based reimbursement increases to purchase of service providers contracting with the department up to a maximum of eight percent of the current reimbursement. This section does not apply to foster residential care and foster group home providers receiving the maximum reimbursements, but does apply to those providers receiving reimbursements below the maximum reimbursements.

Sec. 111. The department of social services shall examine cost containment alternatives for reimbursing purchase of service providers. The department shall report the alternatives to the social services appropriations subcommittee during the 1983 session of the general assembly.

Sec. 112. The department of social services, in conjunction with representatives of provider and consumer groups, shall examine alternatives for disregarding income in the form of workshop earnings received by individuals participating in sheltered work and work activity services. The department shall report the alternatives to the social services appropriations subcommittee by January 15, 1983.

Sec. 113. There is appropriated from the general fund of the state for the fiscal period beginning July 1, 1982, and ending June 30, 1983, to the department of social services three hundred thousand (300,000) dollars, or so much thereof as is necessary, to be allocated to the counties through the department's district offices for sheltered work and work activity services, provided all of the following conditions are met:

1. The counties shall match every three dollars of funds allocated to the counties under this section with one dollar of local funds.

2. The funds shall not be used for other than sheltered work and work activity services.

3. The department of social services, in establishing eligibility standards for sheltered work and work activity services, shall disregard the first sixty-five dollars of income from sheltered work or work activity services and fifty percent of any income from sheltered work or work activity services above sixty-five dollars.

The district administrator may transfer funds among the counties in the district if a county does not use all of the funds allocated to the county under this section. The funds shall not be used for other than sheltered work and work activity services.

* according to enrolled Act

Sec. 114. Section 230.15, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~Mentally~~ A mentally ill ~~persons~~ person and ~~persons~~ a person legally liable for ~~their~~ the person's support ~~shall~~ remain liable for the support of ~~such~~ the mentally ill person as provided in this section. Persons legally liable for the support of a mentally ill person ~~shall~~ include the spouse of the mentally ill person, any person~~, firm, or corporation~~ bound by contract for support of the mentally ill person, and, with respect to mentally ill persons under eighteen years of age only, the father and mother of the mentally ill person. The county auditor, subject to the direction of the board of supervisors, shall enforce the obligation ~~herein~~ created in this section as to all sums advanced by the county. The liability to the county incurred by a mentally ill person or a person legally liable for the person's support under this section ~~on account of any mentally ill person shall be~~ is limited to an amount equal to one hundred percent of the cost of care and treatment of the mentally ill person at a state mental health institute for one hundred twenty days of hospitalization~~, whether occurring subsequent to a single admission or accumulated as a consequence of two or more separate admissions, and thereafter to~~. This limit of liability may be reached by payment of the cost of care and treatment of the mentally ill person subsequent to a single admission or multiple admissions to a state mental health institute or, if the person is not discharged as cured, subsequent to a single transfer or multiple transfers to a county care facility pursuant to section 227.11. After reaching this limit of liability, a mentally ill person or a person legally liable for the person's support is liable to the county for the care and treatment of the mentally ill person at a state mental health institute or, if transferred but not discharged as cured, at a county care facility in an amount not in excess of the average minimum cost of the maintenance of a physically and mentally healthy individual residing in ~~his~~ the individual's own home, which standard shall be established and may from time to time be revised by the department of social services. ~~No~~ A lien imposed by section 230.25 shall not exceed the amount of the liability which may be incurred under this section on account of any mentally ill person.

Sec. 115. Section 230.15, unnumbered paragraph 3, Code 1981, is amended by striking the unnumbered paragraph.

Sec. 116. Section 114 of this Act applies to all payments made by a mentally ill person or a person legally liable for the person's support for the cost of care and treatment of the mentally ill person at a state mental health institute or, if transferred but not discharged from a state mental health institute, at a county care facility before, on, or after the effective date of this Act. However, if such payments exceed the liability limitations in section 114 of this Act on the effective date of this Act, a county is not liable for repayment of the excess payments.

Sec. 117. There is appropriated from the general fund of the state for the fiscal period beginning January 1, 1983, and ending June 30, 1983, to the department of social services, two hundred thousand (200,000) dollars, or so much thereof as is necessary, for the development and operation of a dependent adult abuse program by the community services division.

The department of social services, on January 1, 1983 or as soon thereafter as practicable, shall establish a program relating to the providing of services in cases of dependent adult abuse. The program shall emphasize the reporting and evaluation of dependent adult abuse of an adult who is unable to protect his or her own interests or unable to perform or obtain essential services. For the purposes of the program "dependent adult abuse" means:

1. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

a. Physical injury to or unreasonable confinement or cruel punishment of a dependent adult.

b. The commission of a sexual offense under chapter 709 or section 726.2 with or to a dependent adult.

c. Exploitation of a dependent adult which means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

d. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health.

2. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

Dependent adult abuse does not include:

a. Depriving a dependent adult of medical treatment if the dependent adult is an adherent of a religion whose tenets and practices call for reliance on spiritual means through prayer alone in place of reliance on medical treatment.

b. The withholding and withdrawing of health care from a dependent adult when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian when the dependent adult is unable to express his or her wishes and is terminally ill in the opinion of a licensed physician.

A person who believes that a dependent adult has suffered abuse may report the suspected abuse to the department of social services.

The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports in a statewide registry and shall inform the appropriate county attorneys of any reports. The department shall evaluate the reports expeditiously. However, the state department of health is solely responsible for the evaluation and disposition of adult abuse cases within health care facilities and shall inform the department of social services of such evaluations and dispositions.

For purposes of the dependent adult abuse program the department of social services shall expand the central registry for child abuse to include reports of dependent adult abuse and chapter 235A shall apply to the statewide registry for dependent adult abuse.

The department of social services shall complete an assessment of needed services, shall make appropriate referrals to services, and in the best interest of the dependent adult shall initiate court action for the appointment of a guardian or conservator or for admission or commitment to an appropriate institution or facility.

The department may provide necessary protective services and may establish a sliding fee schedule for those persons able to pay a portion of the protective services provided.

The department shall submit a final report by January 1, 1984 to the governor and the senate and house committees on human resources reporting its findings and recommendations regarding the continuance of a state dependent adult abuse program.

For purposes of this program and upon showing of probable cause that a dependent adult has been abused, a district court may authorize a person, authorized by the department, to make an evaluation, to enter the residence of, and to examine the dependent adult.

A person participating in good faith in reporting or cooperating or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

The department shall adopt rules pursuant to chapter 17A to implement the dependent adult abuse program.

Sec. 118. Section 232.80, Code 1981, is amended to read as follows:

232.80 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~~ the services shall be provided in preference to removal of the child from the home. ~~Such~~ The 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 232.141.~~

Sec. 119. Section 232.141, subsection 2, Code 1981, is amended to read as follows:

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 232.80,~~ 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 624.23. 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.

Sec. 120. Section 234.13, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Acquires, alters, transfers, or redeems food stamp coupons or possesses coupons, knowing that the coupons have been received, transferred, or used in violation of this section or the provisions of the federal food stamp program under 7 U.S.C. ch. 51 or the federal regulations issued pursuant to that chapter.

Sec. 121. Section 249A.4, subsection 1, Code 1981, is amended to read as follows:

1. Determine the greatest amount, duration, and scope of assistance which may be provided, and the broadest range of eligible individuals to whom assistance may effectively be provided, under this chapter within the limitations of available funds. In so doing, ~~he~~ the commissioner shall at least every six months evaluate the scope of the program currently being provided under this chapter, project the probable cost of continuing a like program, compare such probable cost with the remaining balance of the state appropriation made for payment of assistance under this chapter during the current appropriation period, and expand or curtail the program accordingly; provided that ~~in no event~~ reimbursement for medical and health services shall ~~the scope of the program~~ be ~~less than payment of all costs of the care and services to which reference is made in section 249A.2, subsection 5, which are provided to the individuals and families described in section 249A.3, subsection 1~~ made in accordance with section 249A.4, subsection 9 in section 122 of this Act. After each evaluation of the scope of the program, the commissioner shall report ~~his conclusions and his action thereon~~ to the general assembly through the legislative council or in ~~such other~~ another manner as the general assembly may by resolution direct.

Sec. 122. Section 249A.4, subsection 9, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

9. Determine the method and level of reimbursement for all medical and health services referred to in section 249A.2, subsection 5 or 6, after considering all of the following:

a. The promotion of efficient and cost-effective delivery of medical and health services.

b. Compliance with federal law and regulations.

c. The level of state and federal appropriations for medical assistance.

d. Reimbursement at a level as near as possible to actual costs and charges after priority is given to the considerations in paragraphs a, b, and c.

Sec. 123. Section 252B.5, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Determine periodically whether an individual receiving unemployment compensation benefits under chapter 96 owes a support obligation which is being enforced by the unit, and enforce the support obligation through court proceedings in the absence of a voluntary agreement by the individual to have specified amounts withheld from the individual's unemployment compensation benefits.

Sec. 124. The department of social services shall adopt administrative rules under section 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph b relating to the community work program for unemployed parents, the coordinated manpower services demonstration project, hospital reimbursements based on a prospective basis, percentage reductions of reimbursements for most mandatory and optional services, the limitations on lengths of hospital stays, physician reimbursements based on prevailing fees, social services block grant allocations to the counties, and allocations to the counties for sheltered work and work activity services in sections 86, 92, 98, 108, and 113 of this Act, and may adopt administrative rules under section 17A.4, subsection 2 and section 17A.5, subsection 2, paragraph b relating to professional prescription drug dispensing fee reimbursements, the unemployed parent program under the aid to families with dependent children program and residential care facility reimbursements in sections 91, 96, and 102 of this Act and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. However, it is the intent of the general assembly that the rules be adopted pursuant to the provisions of chapter 17A and that the emergency rule-making process be used only if the procedures specified in chapter 17A cannot be completed in time.

DIVISION VIII

Sec. 125. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 1, subsection 1, and subsection 2, paragraph a, are amended to read as follows:

1. IOWA LAW ENFORCEMENT ACADEMY

For salaries, support, maintenance, and miscellaneous purposes	$ 665,750	$	~~686,442~~ 690,342

~~If legislation creating a criminal justice improvement fund is enacted and becomes law, the funds appropriated by this subsection for the Iowa law enforcement academy are reduced for the fiscal year beginning July 1, 1981 and ending June 30, 1982 by one hundred thirty-nine thousand nine hundred sixty-two (139,962) dollars and for the fiscal year beginning July 1, 1982 and ending June 30, 1983 by one hundred forty-eight thousand eight hundred seventy-one (148,871) dollars.~~

a. Military division

For salaries except salaries provided for in paragraph b of this subsection, support, maintenance, and miscellaneous purposes	$ 2,256,288	$	~~2,351,918~~ 2,592,862

Sec. 126. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 2, subsection 2, is amended to read as follows:

2. INSPECTION AND SECURITY FUNCTION

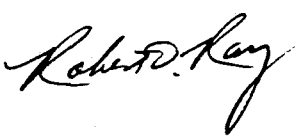
For salaries, support, maintenance, and miscellaneous purposes of fire marshal's inspections, administration of the state building code, and arson investigators including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of sixteen percent of the salaries for which the funds are appropriated, and capitol security divisions	$ 1,281,347	$ ~~1,340,250~~ 1,493,020

Sec. 127. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 2, subsection 3, paragraph d, is amended by striking the paragraph.

Sec. 128. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 14, section 3, subsection 3, is amended by striking the subsection.

*Sec. 129. If the appropriations made by this Act create a general fund balance that results in the state comptroller having to delay or consider delaying making any payments authorized by this Act, or any other Act making appropriations, the state comptroller shall make a monthly report to members of the general assembly relating to the fiscal condition of the state and the report shall include, but not be limited to, the revenue growth for the previous month, and the general fund balance, which shall reflect the total general fund obligations not satisfied at the end of the month.

Approved May 19, 1982, except those items designated as bracketed portions of Sec. 80 and Sec. 86 and Sec. 93 and Sec. 129 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

* Item veto; see message at end of this Act

The Honorable Mary Jane Odell
Secretary of State
State Capitol Building
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 2304, an act relating to and making supplemental appropriations for the fiscal year beginning July 1, 1982 and ending June 30, 1983.

I am unable to approve that portion of Section 80 which reads as follows:

> It is the intent of the general assembly that in expending the funds appropriated under subparagraphs 1 through 3, the office for planning and programming shall comply with recommendation 5 of the legislative fiscal bureau program evaluation of the office for planning and programming, dated February, 1982.

I am unable to approve that portion of Section 86 which reads as follows:

> The state shall provide workers' compensation benefits under chapters 85, 85A, 85B, and 86 to participants in the community work program and those chapters shall be exclusive, compulsory, and obligatory upon the state and the participants in the community work program.

I am unable to approve the item designated in the Act as Section 93 which reads as follows:

> Sec. 93. Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 7, section 3, subsection 2, unnumbered paragraph 1, is amended to read as follows:
>
> For medical assistance, provided that the funds appropriated in this subsection shall not be transferred or used for any other purpose than specified in this subsection, notwithstanding section 8.39, 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 under any of the following conditions:

I am unable to approve the item designated in the Act as Section 129 which reads as follows:

> Sec. 129. If the appropriations made by this Act create a general fund balance that results in the state comptroller having to delay or consider delaying making any payments authorized by this Act, or any other Act making appropriations, the state comptroller shall make a monthly report to members of the general assembly relating to the fiscal condition of the state and the report shall include, but not be limited to, the revenue growth for the previous month, and the general fund balance, which shall reflect the total general fund obligations not satisfied at the end of the month.

A portion of Section 80 of Senate File 2304 requires the Office for Planning and Programming to organize for the expenditure of its state funds according to a Legislative Fiscal Bureau

program evaluation recommendation. This recommendation would divide OPP into three major divisions: Intergovernmental Assistance, Interagency Planning and Coordination, and Administration and Support.

OPP, under the leadership of Ed Stanek, has recently undergone an administrative reorganization. The structure of the organization was refined to more closely reflect the statutory purpose of the office. The legislature effectively endorsed these reorganization efforts by passing Senate File 2216, which made the statutory changes needed to implement the administrative reorganization. However, Senate File 2216, which was dubbed by many as the OPP reorganization bill, did not prescribe a statutory organization for OPP. The Senate and House State Government Committees, which drafted Senate File 2216, apparently determined that the organizational structure of OPP was something best left to those who had responsibility for managing the office.

Thus, it appears that these organizational directives in Senate File 2304 run contrary to the work of the General Assembly in Senate File 2216. In addition, this portion of Senate File 2304 allows a recommendation made by the Fiscal Bureau to take precedence over the efforts and considerations of the standing committees on state government.

Moreover, it seems apparent that the impact of this portion of Senate File 2304 was not clear to members of the General Assembly. This is exhibited by an irony which would result from the implementation of this language. Another portion of Section 80 of Senate File 2304 stipulates that the Iowa Council for Children, Youth, and Families be provided with at least two staff positions and support services. Yet implementation of the Fiscal Bureau recommendation would result in no dedicated support for the Council.

Section 86 of Senate File 2304 establishes a method to provide community work experience for those on the Aid to Families with Dependent Children-Unemployed Parent (AFDC-UP) program. The Department of Social Services is required to contract, at reasonable cost, with counties to provide work assignments for the AFDC-UP recipients. These recipients would receive their AFDC-UP benefits in return for performing the designated work assignments for the county. DSS would be required to assume the costs of workers' compensation as part of the contract with the county.

No state funds were appropriated to DSS to administer this program which, by federal requirement, would include a $25 monthly work expense grant to each AFDC-UP recipient in addition to the AFDC-UP payment. Nevertheless, the program has the potential of providing valuable work experience to AFDC-UP recipients, and the state has the ability to negotiate a contract with the counties that would stay within reasonable cost limitations. Therefore, I am signing that portion of the program into law.

However, the ability of the state to limit its financial liability for the program is seriously undermined by that portion of Section 86 which requires the state to assume the cost of workers' compensation claims for the program. Preliminary estimates indicate that workers' compensation claims for the program may run as high as $300,000 each year. Yet no funds were appropriated to DSS to provide for these claims. While there is a possibility of a federal sharing of these costs, the workers' compensation requirement poses a substantial financial liability for the state since no provisions were made for this budget item.

Furthermore, because of the lack of state funding, the workers compensation payment requirement may act as a substantial financial disincentive for DSS to enter into a community work contract with the county. And, it can be reasonably argued that the counties can bear some responsibility for wage and medical compensation for injured workers since the counties will benefit from the tasks performed and the workers will be performing work assignments prescribed by the counties. To do otherwise would remove an incentive for the counties to provide safe jobs. Therefore, the payment of workers' compensation benefits should be part of the community service contract negotiated by and between the state and counties and should not be made a mandatory state financial obligation.

Section 93 of Senate File 2304 amends last year's state appropriation to the medical assistance (Medicaid) program to prohibit the transfer of any of these state funds. Since this restriction is made in a separate section of the bill, distinct from Section 94 which makes the supplemental appropriation to Medicaid, it would not appear to be a condition of the appropriation and would thus be subject to an item veto.

Section 8.39 of the Code authorizes the Governor and the State Comptroller to transfer funds from one agency to another when the original appropriation has proven to be insufficient to meet the legitimate expenses of the receiving agency. The use of this transfer authority is preceded by a two-week notice given to various legislators. During this time legislative comments are received and carefully considered.

The transfer authority is used sparingly. Nevertheless, it does provide for the budgetary flexibility needed to deal with unforeseen or changing circumstances. Certainly, the unsettled economic conditions we face today require flexibility in administering the budget, particularly in light of the relatively small treasury balances that have been provided for.

While the frequent need for medical assistance budget supplements indicates that a transfer from this program is unlikely, the Medicaid budget's reliance on federal funds and regulations reveals the need to maintain transfer authority. President Reagan's proposed budget includes a swap with the states—the federal government would fund Medicaid while the states would assume the costs of the AFDC and food stamp programs. While the administration and the Governors have yet to agree on a swap, it is important to note that both include federal funding for Medicaid in their proposals. In addition, forthcoming federal changes in the home-based care requirement could save state funds during the coming fiscal year. Should a swap be forthcoming, or if the federal regulatory changes occur, transfer restrictions on the Medicaid program would seriously hamper Iowa's ability to adjust.

Therefore, in order to maintain the flexibility needed to effectively operate government during unsettled economic and federal budgetary times, Section 93 must be item vetoed.

Section 129 of Senate File 2304 provides for a monthly report by the State Comptroller to the General Assembly. This monthly report must, at minimum, include the revenue growth for the previous month and the general fund balance which must include all unsatisfied obligations for the month. Moreover, the Comptroller's monthly report need be filed only when the $40,775,758 appropriations made in the bill may force a delay in state general fund payments.

The language in the section is, at best, unclear and, at worst, unworkable.

Apparently, legislators intended to require a monthly report indicating state tax receipts and a listing of any delayed general fund payments. This intent can be met by the State Comptroller. In fact, all legislators presently receive the State Comptroller's monthly tax receipts report. This report includes a summary of state tax receipts received for the month and for the fiscal year to date. In addition, information is generally included regarding the ability of the state to meet its obligations and to meet the constitutional requirement of a balanced budget. Moreover, the list of major general fund payments that have been delayed is already a matter of public record and those affected by the delays are notified as far in advance as possible. The State Comptroller can and will add legislative leaders to the list of those notified of delayed payments.

However, the language in Section 129 uses the term "general fund balance" and the phrase modifying it "total general fund obligations not satisfied at the end of the month" to describe the required content of the Comptroller's report. This language fails to make the distinction between cash balance and general fund balance which is essential to understanding the reasons for delayed payments. The cash balance is the cumulative result of state's cash income and cash payments. This balance, together with estimates of future cash flow, is used to schedule future cash payments. Delays in large payments, or partial payments, are made to avoid a cash deficit.

The general fund balance, on the other hand, is defined to include total general fund obligations. The financial obligations of state agencies are matched with state revenues to yield a general fund balance.

Agencies are given quarterly allocations of appropriated funds and are allowed to draw on those allocations until their allocation is reached or until the end of the fiscal year. No record of the extent to which an agency has obligated funds is known until the fiscal year ends. Thus, there is but one report of the general fund balance, and it comes not monthly but only at the end of the fiscal year.

In short, it appears the legislature intended to obtain a report of delayed payments. Unfortunately, the language in Section 129 instead requires a monthly general fund balance statement which has little to do with delayed payment decisions and is now prepared but once a year.

As a result, the requirements of Section 129 cannot be met, and this section cannot be approved. However, since the legislature has an appropriate desire to be kept informed about the state's financial picture and apparently desires to receive a monthly receipts statement and delayed payments report, the State Comptroller will forward such a monthly report to legislative leaders.

For these 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 Senate File 2304 are hereby approved this date.

Sincerely,

Robert D. Ray
Governor

CHAPTER 1261

ADMINISTRATION AND BENEFITS OF IOWA PUBLIC RETIREMENT SYSTEMS

S.F. 2178

AN ACT relating to the administration and benefits of public retirement systems.

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

Section 1. Section 97A.1, subsections 9 and 10, Code 1981, are amended to read as follows:

9. "Child" ~~or "children" shall mean~~ means only the surviving issue of a deceased active or retired member, or ~~the~~ a child ~~or children~~ legally adopted by a deceased member prior to ~~his~~ the member's retirement. "Child" includes only an individual who is under the age of eighteen years, an individual who is under the age of twenty-two and is a full-time student, or an individual who is disabled under the definitions used in section 402 of the Social Security Act as amended if the disability occurred to the individual during the time the individual was under the age of eighteen years and the parent of the individual was an active member of the system.

10. "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 the member's rank or position including compensation for longevity and the daily amount received for meals under section 80.8 and excluding any amount received for overtime compensation or other special additional compensation, ~~meal and~~ other payments for meal expenses, uniform cleaning allowances, travel expenses, and uniform allowances and excluding any amount received upon termination or retirement in payment for accumulated sick leave or vacation.

Sec. 2. Section 97A.1, subsection 12, Code 1981, is amended to read as follows:

12. "Average final compensation" shall mean the average earnable compensation of the member during the member's highest ~~five~~ three years of service as a member of the state department of public safety, or if the member has had less than ~~five~~ three years of ~~such~~ service, then the average earnable compensation of the member's entire period of service.

Sec. 3. Section 97A.6, subsection 1, paragraph b, Code 1981, is amended to read as follows:

b. 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~~ calculated in the manner provided in this paragraph using the average final compensation at the time of termination of employment.

Sec. 4. Section 97A.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1981, is amended to read as follows:

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~~ the beneficiary had remained in active service, be engaged in a gainful occupation paying more than the difference between the member's retirement allowance and one and one-half times 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 the retirement allowance shall be reduced to an amount which together with the amount earned by the member shall equal one and one-half times the amount of 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 the member's earning capacity be later changed, the amount of the retirement allowance may be further modified, provided, that the new retirement allowance shall not exceed the amount of the retirement allowance originally granted adjusted by annual readjustments of pensions pursuant to subsection 15 of this section nor an amount which, when added to the amount earned by the beneficiary, equals one and one-half times the amount of 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 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 15, paragraph "d," of this section for readjustment of pensions when a rank or position has been abolished.

Sec. 5. Section 97A.6, subsection 7, paragraph b, Code 1981, is amended to read as follows:

b. Should a disability beneficiary under age fifty-five be restored to active service at a compensation not less than ~~his~~ the disability beneficiary's average final compensation, ~~his~~ the disability beneficiary's retirement allowance shall cease, ~~he~~ the disability beneficiary shall again become a member and ~~he~~ shall contribute thereafter at the same rate ~~he~~ paid prior to disability, and ~~any~~ former service on the basis of which ~~his~~ the disability beneficiary's service was computed at the time of ~~his~~ retirement shall be restored to full force and effect and upon ~~his~~ subsequent retirement ~~he~~ the disability beneficiary shall be credited with all ~~his~~ service as a member, and also with the period of disability retirement~~, provided that during such period of disability he has not engaged in a gainful occupation from which his net earnings exceeded the difference between his disability retirement allowance and the amount he would have received for said period if his compensation at the time of disability had continued~~.

Sec. 6. Section 97A.6, subsection 8, paragraphs b, d, e, and f, Code 1981, are amended to read as follows:

b. If there ~~be~~ is no ~~such~~ nomination of beneficiary, the benefits provided in paragraph "a" 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~~ beneficiaries, for a member in service ~~there shall be paid~~ at the time of death a pension ~~which~~ shall be paid equal to one-fourth of the average final compensation of ~~such~~ the member, but in no instance less than fifty dollars per month or for a member not in service at the time of death 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, 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;

d. If there ~~be~~ is 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~~ and there is a child of a member, 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~~ determines, to continue as a joint and survivor pension until every ~~such~~ child of the member dies or attains the age of eighteen or twenty-two if applicable; or

e. If there ~~be~~ is no surviving spouse or child ~~under age eighteen~~, then to the member's dependent father or mother or both, as the board of trustees ~~in its discretion shall determine~~ determines, to continue until remarriage or death.

f. In addition to the benefits ~~herein~~ enumerated in this subsection, there shall also be paid for each child of a member ~~under the age of eighteen years~~ 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.

Sec. 7. Section 97A.6, subsection 9, paragraphs b and c, Code 1981, are amended to read as follows:

b. If there ~~be~~ is no surviving spouse, ~~children under the age of eighteen years~~ child, or dependent parent surviving ~~such~~ a deceased member, the death shall be treated as an ordinary death case and the benefit payable ~~in accordance with the provisions of~~ under subsection 8, paragraph "a" of this section, in lieu of the pension provided in paragraph "a" of this subsection ~~9~~, shall be paid to the member's estate.

c. In addition to the benefits for the surviving spouse ~~herein~~ enumerated in this subsection, there shall also be paid for each ~~dependent~~ child of a member ~~under the age of eighteen years~~ 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.

Sec. 8. Section 97A.6, subsection 12, paragraph b, Code 1981, is amended to read as follows:

b. ~~In the event of the death of~~ If the spouse dies either prior or subsequent to the death of the member, to the guardian of each surviving child ~~under eighteen years of age~~, a monthly pension equal to the monthly pension payable under subsection 9, paragraph "c," of this section for the support of ~~such~~ the child.

Sec. 9. Section 97A.8, subsection 1, paragraph f, Code 1981, is amended to read as follows:

f. An amount equal to ~~two~~ three and ~~twenty-one hundredths~~ one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund.

Sec. 10. Section 97B.7, subsection 2, paragraph b, subparagraphs (3), (4), and (5), Code 1981, are amended by striking the subparagraphs, inserting in lieu thereof the following subparagraphs, and renumbering the remaining subparagraphs:

(3) That the common stock or shares issued by solvent corporations or institutions are eligible for investment if the stock or shares are listed or admitted to trading on a securities exchange located in the United States or are publicly held and have been traded in the "over-the-counter" market and market quotations are readily available.

(4) That, where prudent, investments made under this paragraph shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state.

Sec. 11. Section 97B.8, Code 1981, is amended to read as follows:

97B.8 ADVISORY INVESTMENT BOARD. A board ~~shall be~~ is established to be known as the "Advisory Investment Board of the Iowa Public Employees' Retirement System", hereinafter called the "board", whose duties ~~shall be~~ are to advise and confer with the department in matters relating to the investment of the trust funds of the Iowa public employees' retirement system. The powers of the board ~~shall be purely~~ are advisory and the department ~~shall~~ is not ~~be~~ bound in the making of ~~any~~ an investment by the recommendations of the board.

PARAGRAPH DIVIDED. The board shall consist of seven members. Five of the members shall be appointed by the governor, one of whom shall be an executive of a domestic life insurance company, one an executive of a state or national bank operating within the state of Iowa, one an executive of a major industrial corporation located within the state of Iowa, and two shall be active members of the system, one of whom shall be an employee of a school district, ~~county school system, joint county system~~ area education agency, or merged area and one of whom shall not be an employee of a school district, ~~county school system, joint county system~~ area education agency, or merged area. The president of the senate shall appoint one member from the membership of the senate and the speaker of the house of representatives shall appoint one member from the membership of the house. The two members appointed by the president of the senate and the speaker of the house of representatives and the two active members of the system appointed by the governor ~~shall be~~ are ex officio members of the board.

PARAGRAPH DIVIDED. The members who are executives of a domestic life insurance company, a state or national bank and a major industrial corporation shall be paid their actual expenses incurred in performance of their duties and shall receive in addition the sum of forty dollars for each day of service not exceeding forty days per year. Legislative members shall receive the sum of forty dollars for each day of service and their actual expenses incurred in the performance of their duties. The per diem and expenses of the legislative members shall be paid from funds appropriated under section 2.12. The members who are active members of the system shall be paid their actual expenses incurred in the performance of their duties as members of the board and performance of their duties as members of the board shall not affect their salaries, vacation or leaves of absence for sickness or injury. The appointive terms of the members appointed by the governor ~~shall be~~ are for a period of six years beginning and ending as provided in section 69.19. ~~In the event of~~ If there is a vacancy~~, through resignation or any other cause,~~ in the membership of the board, the governor ~~shall have~~ has the power of appointment. Appointees to this board ~~shall be~~ are subject to confirmation by the senate.

*Sec. 12. Section 97B.11, Code 1981, 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~~ seven-tenths percent of the covered wages paid by the employer through ~~June 30, 1979~~ December 31, 1984, and commencing ~~July 1, 1979~~ January 1, 1985, in the amount of three and ~~seven-tenths~~ eight-tenths percent of the covered wages paid by the employer, until the first of the month 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~~ seventy-five hundredths percent of the covered wages of the member for service ~~commencing July 1, 1977~~ through ~~June 30, 1979~~ December 31, 1984, and in the amount of ~~five and seventy-five~~ six and twenty-five hundredths percent of the covered wages of the member for service commencing ~~July 1, 1979~~ January 1, 1985.

* Item veto; see message at end of this Act

Sec. 13. Section 97B.41, subsection 1, paragraph a, unnumbered paragraph 1, Code 1981, is amended to read as follows:

"Wages" means all remuneration for employment, including the cash value of remuneration paid in ~~any~~ a medium other than cash, but not including the cash value of remuneration paid in ~~any~~ a medium other than cash necessitated by the convenience of the employer~~, such~~. The amount ~~as~~ agreed upon by the employer and employee ~~and~~ for remuneration paid in a medium other than cash shall be reported to the department by the employer ~~shall be~~ and is conclusive of the value of the remuneration ~~in a medium other than cash; except that~~. However, remuneration which does not equal or exceed the sum of three hundred dollars in ~~any~~ a calendar quarter shall be excluded. "Wages" does not include special lump sum payments made as payment for sick leave or accrued vacation or payments made as an incentive for early retirement. Wages for an elected official means the salary received by an elected official, exclusive of expense and travel allowances.

Sec. 14. Section 97B.41, subsection 1, paragraph b, subparagraph (4), Code 1981, is amended to read as follows:

(4) For each calendar year from January 1, 1976, ~~and thereafter~~ through December 31, 1983, wages not in excess of twenty thousand dollars.

Sec. 15. Section 97B.41, subsection 1, paragraph b, subparagraph (6), Code 1981, is amended to read as follows:

(6) If a member is employed by more than one employer during a calendar year, the total amount of wages paid to ~~him~~ the member by ~~his~~ the several employers shall be included in determining the limitation on covered wages as provided ~~by~~ in this paragraph ~~"b", subparagraph (3), of this section~~. If the amount of wages paid to a member by ~~his~~ the member's several employers during a calendar year exceeds the covered wage limit, the amount of such excess shall not be subject to the contributions required by section 97B.11.

Sec. 16. Section 97B.41, subsection 1, paragraph b, Code 1981, is amended by adding the following new subparagraphs after subparagraph (4) and renumbering the remaining subparagraphs:

NEW SUBPARAGRAPH. For each calendar year from January 1, 1984 through December 31, 1985, wages not in excess of twenty-one thousand dollars per year.

NEW SUBPARAGRAPH. For each calendar year from January 1, 1986 and thereafter, wages not in excess of twenty-two thousand dollars.

Sec. 17. Section 97B.41, subsection 20, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

20. "Five-year average covered wage" means a member's covered wages averaged for the highest five years of the member's service. If the member has less than five years of service, then the average shall be computed using the actual number of years as a member. The highest five years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the fifth year by combining the wages from the highest quarter or quarters not being used in the selection of the four highest years with the final quarter or quarters of the member's service to create a full year. If the five-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the five-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service.

Sec. 18. Section 97B.48, subsection 3, Code 1981, is amended to read as follows:

3. If ~~at any time~~ after the first day of the month in which the member attains the age of fifty-five years and until the member's sixty-fifth birthday, a member who is retired under this chapter is in regular full-time employment, the member's retirement allowance shall be suspended for as long as the member remains in employment. However, employment shall not be regarded as full-time employment until the member receives remuneration in an amount in excess of two thousand one hundred dollars for ~~any~~ a calendar year. Effective the first of the month in which a member attains the age of sixty-five years, a retired member ~~shall be entitled to~~ may receive a retirement allowance after return to covered employment regardless of the amount of remuneration received. As of the first of the month in which the member attains the age of seventy years, the member ~~shall be entitled to~~ may receive a retirement allowance determined under section 97B.49, regardless of the amount of remuneration received. Upon ~~any~~ a retirement after re-employment, a retired member ~~shall be entitled to~~ may have ~~his or her~~ the retired member's retirement allowance redetermined under this section or section 97B.49 or 97B.50, whichever is applicable, based upon the ~~employee's and employer's additional contributions, and any~~ addition of credit for the years of membership service of the employee after re-employment.

Sec. 19. Section 97B.49, subsection 5, unnumbered paragraph 1, Code 1981, is amended to read as follows:

For each active member retiring ~~on or after~~ between January 1, 1976 and June 30, 1982, 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-seven percent of the five-year average covered wage multiplied by a fraction of years of service. For each member retiring on or after July 1, 1982, with four or more complete years of service, the percent used in computing the monthly benefit is fifty. 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.

Sec. 20. Section 97B.49, subsection 7, Code 1981, is amended to read as follows:

7. Notwithstanding ~~the~~ other 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 July 1, 1978 and June 30, 1982 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 5 of this section, a monthly retirement allowance equal to one-twelfth of forty-seven percent of the member's five-year average covered wage as a conservation peace officer ~~multiplied by a fraction of years of service~~, with benefits payable during the member's lifetime. For each conservation peace officer eligible for benefits under this subsection who retires on or after July 1, 1982, the percent used in computing the monthly retirement allowance is fifty. There is appropriated from the general fund of the state to the Iowa department of job service from funds not otherwise appropriated an amount sufficient to pay 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 97B.11, to finance increased benefits to conservation peace officers under this subsection.

Sec. 21. Section 97B.49, subsection 8, Code 1981, is amended to read as follows:

8. a. Notwithstanding ~~the~~ other provisions of this chapter, a member who is or has been employed as a county sheriff, as defined in section 39.17, or as a deputy sheriff appointed pursuant to ~~chapter 341~~ section 341.1, Code 1981, or section 331.903, Code 1981 Supplement, and who retires ~~on or after~~ between January 1, 1978 and June 30, 1982, 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 benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of forty-seven percent of the member's five-year average covered wage as a sheriff or deputy sheriff ~~multiplied by a fraction of years of service~~, with benefits payable during the member's lifetime. For each sheriff and deputy sheriff eligible for benefits under this subsection who retires between July 1, 1982 and June 30, 1983, the percent used in computing the monthly retirement allowance is fifty.

Notwithstanding other provisions of this chapter, a member who is or has been employed as a peace officer, and who retires on or after July 1, 1983 and meets the age requirements and membership service requirements for benefits specified in this paragraph may elect to receive a monthly retirement allowance equal to one-twelfth of fifty percent of the member's five-year average covered wage as a peace officer, with benefits payable during the member's lifetime.

For the purpose of this subsection membership service as a peace officer means service under this system as any or all of the following:

(1) As a county sheriff as defined in section 39.17.

(2) As a deputy sheriff appointed pursuant to section 341.1, Code 1981, or section 331.903, Code 1981 Supplement.

(3) As a marshal or police officer in a city not covered under chapter 400.

b. Each county and applicable city 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 97B.11. The additional percentage of covered ~~wage~~ wages shall be calculated separately by the department for service under paragraph a, subparagraphs (1) and (2), and for service under paragraph a, subparagraph (3), and each shall be an actuarially determined amount for that type of service which, if contributed throughout the entire period of active service, would be sufficient to provide the pension benefit provided in this section.

Sec. 22. Section 97B.49, subsection 10, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Notwithstanding sections of this chapter relating to eligibility for and determination of retirement benefits, a vested member who is or has been employed as a correctional officer by the department of social services and who retires on or after July 1, 1983 and at the time of retirement is at least sixty years of age and has completed at least thirty years of membership service as a correctional officer, may elect to receive, in lieu of the receipt of benefits under subsection 5 of this section, a monthly retirement allowance equal to one-twelfth of ~~forty-seven~~ fifty percent of the member's five-year average covered wages as a correctional officer ~~multiplied by a fraction of years of service~~, with benefits payable during the member's lifetime.

Sec. 23. Section 97B.49, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. a. Effective beginning July 1, 1982, for each member who retired from the system prior to January 1, 1976, and for each member who retired from the system on or after January 1, 1976 under subsection 1 of this section, the amount of regular monthly retirement allowance attributable to membership service and prior service that was payable to the member for June 1982 is increased as follows:

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

(2) For the eleventh through the twentieth years of service, one dollar per month for each complete year of service.

(3) For the twenty-first through the thirtieth years of service, one dollar and fifty cents per month for each complete year of service.

(4) The amount of monthly increase payable to a member under this subsection is also payable to a beneficiary and a contingent annuitant and shall be reduced by an amount based upon the actuarial equivalent of the option selected in section 97B.51 or section 97B.52 compared to the full monthly benefit provided in this section.

[*b. (1) There is appropriated annually from the general fund of the state to the Iowa department of job service to be deposited in the Iowa public employees' retirement fund, to pay for the benefit increases provided in this subsection, except as otherwise provided in this subsection, the sum of two million two hundred seventeen thousand dollars per year, commencing with the fiscal year beginning July 1, 1982 and through the fiscal year beginning July 1, 2001, for each fiscal year in which the unobligated state general fund balance on June 30 of the preceding fiscal year as certified by the state comptroller by the following September 10 is more than thirty-five million dollars.

(2) If the unobligated state general fund balance on June 30 of any year from 1982 through 2001 as certified by the state comptroller by the following September 10 is less than thirty-five million dollars, the cost of benefit increases provided in this subsection of two million two hundred seventeen thousand dollars per year for the fiscal year following that June 30 shall be absorbed by the Iowa public employees' retirement fund.

(3) If the unobligated state general fund balance on June 30 of any year from 1982 through 2001, minus the amount appropriated in subparagraph (1), is more than thirty-five million dollars as certified by the state comptroller by the following September 10 and the cost of the benefit increases provided in this subsection during that fiscal year, or any previous fiscal year, has been absorbed by the Iowa public employees' retirement fund and has not previously been repaid from the state general fund in the manner provided in this subparagraph, there is appropriated from the general fund of the state to the Iowa department of job service for the fiscal year beginning the following July 1 two million two hundred seventeen thousand dollars to be deposited in the Iowa public employees' retirement fund to pay the cost of the benefit increases provided in this subsection and absorbed by the Iowa public employees' retirement fund for a previous fiscal year or portion of a fiscal year.

(4) Notwithstanding subparagraphs (1) and (3), funds appropriated in subparagraphs (1) and (3) for a fiscal year shall not exceed the amount by which the unobligated state general fund balance on June 30 of a fiscal year as certified by the state comptroller by the following September 10 exceeds thirty-five million dollars.]

Sec. 24. Section 97B.53, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. The department shall refund employee and employer contributions on the covered wages earned by a retired member that are not used in the recomputation of monthly benefits of that member.

Sec. 25. Section 97B.75, Code 1981, is amended to read as follows:

97B.75 PRIOR SERVICE CREDIT BEFORE JANUARY 1, 1946. An active, vested, or retired member who was employed prior to January 1, 1946 by ~~the state or a political subdivision, except for a member employed by a school district which had established a pension and annuity retirement system under sections 294.8, 294.9, and 294.10, and was not employed by the state or a political subdivision between January 1, 1946 and July 4, 1953,~~ an employer may file written verification of the member's dates of employment with the department of job service and receive credit for years of prior service for the period of employment. However, a member who is eligible for or receiving a retirement allowance based upon employment with an employer prior to January 1, 1946 is not eligible for credit for that period of employment.

* Item veto; see message at end of this Act

Sec. 26. Section 411.1, subsection 11, Code 1981, is amended to read as follows:

11. "Child" ~~or "children" shall mean~~ means only surviving issue of a deceased active or retired member, or ~~the~~ a child ~~or children~~ legally adopted by a deceased member prior to ~~his~~ the member's retirement. "Child" includes only an individual who is under the age of eighteen years, an individual who is under the age of twenty-two years and is a full-time student, or an individual who is disabled at the time under the definitions used in section 402 of the Social Security Act as amended if the disability occurred to the individual during the time the individual was under the age of eighteen years and the parent of the individual was an active member of the system.

Sec. 27. Section 411.1, subsection 14, Code 1981, is amended to read as follows:

14. "Average final compensation" ~~shall mean~~ means the average earnable compensation of the member during the ~~five~~ three years of service ~~he~~ the member earned ~~his~~ the member's highest salary as a ~~policeman~~ police officer or ~~fireman~~ fire fighter, or if ~~he~~ the member has had less than ~~five~~ three years of ~~such~~ service, then the average earnable compensation of ~~his~~ the member's entire period of service.

Sec. 28. Section 411.5, subsection 1, paragraphs a and b, Code 1981, are amended to read as follows:

a. The chief officer of the fire department, the city treasurer, ~~the city solicitor or attorney,~~ two ~~firemen~~ fire fighters elected by secret ballot by the members of ~~said~~ the department who are entitled to participate in a ~~firemen's pension fund~~ fire retirement system established by law, and ~~two~~ three citizens who do not hold ~~any other~~ another public office, who shall be appointed by the mayor with the approval of the city council, shall ~~constitute~~ serve as the members of the board of trustees of the fire retirement system.

b. The chief officer of the police department, the city treasurer, ~~the city solicitor or attorney,~~ two ~~policemen~~ police officers elected by secret ballot by the members of ~~said~~ the department who are entitled to participate in a ~~policemen's pension fund~~ police retirement system established by law, and ~~two~~ three citizens who do not hold ~~any other~~ another public office, who shall be appointed by the mayor with the approval of the city council, shall ~~constitute~~ serve as the members of the board of trustees of the police retirement system.

Sec. 29. Section 411.5, subsection 8, Code 1981, is amended to read as follows:

8. LEGAL ADVISER. The city attorney or solicitor of ~~the said cities~~ a city shall ~~be~~ serve as the legal adviser of the ~~boards~~ board of trustees at the request of the board.

Sec. 30. Section 411.6, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. Any member in service may retire upon ~~his~~ written application to the board of police or fire trustees as the case may be, setting forth at what time, not less than thirty nor more than ninety days subsequent to the execution and filing ~~therefor, he~~ of the application, the member desires to be retired~~, provided, that~~. However, the ~~said~~ member at the time ~~so~~ specified for ~~his~~ retirement shall have attained the age of fifty-five and shall have served twenty-two years or more ~~in said department~~, and notwithstanding that, during ~~such~~ the period of notification, ~~he~~ the member may have separated from the service.

Sec. 31. Section 411.6, subsection 1, paragraph b, Code 1981, is amended to read as follows:

b. 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 ~~his or her~~ 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~~ calculated in the manner provided in this paragraph using the average final compensation at the time of termination of employment.

Sec. 32. Section 411.6, subsection 7, paragraph a, unnumbered paragraph 1, Code 1981, is amended to read as follows:

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~~ the beneficiary had remained in active service, be engaged in a gainful occupation paying more than the difference between the member's retirement allowance and one and one-half times 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 the member's retirement allowance shall be reduced to an amount which together with the amount earned by the member shall equal one and one-half times the amount of 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 the member's earning capacity be later changed, the amount of the member's retirement allowance may be further modified, provided, that the new retirement allowance shall not exceed the amount of the retirement allowance adjusted by annual readjustments of pensions pursuant to subsection 12 of this section nor an amount which, when added to the amount earned by the beneficiary, equals one and one-half times the amount of 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 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 12, paragraph "c," of this section for readjustment of pensions when a rank or position has been abolished.

Sec. 33. Section 411.6, subsection 7, paragraph b, Code 1981, is amended to read as follows:

b. Should a disability beneficiary under age fifty-five be restored to active service at a compensation not less than ~~his~~ the disability beneficiary's average final compensation, ~~his~~ the disability beneficiary's retirement allowance shall cease, ~~he~~ the disability beneficiary shall again become a member and ~~he~~ shall contribute thereafter at the same rate ~~he~~ paid prior to disability, and ~~any~~ former service on the basis of which ~~his~~ the disability beneficiary's service was computed at the time of ~~his~~ retirement shall be restored to full force and effect and upon ~~his~~ subsequent retirement ~~he~~ the disability beneficiary shall be credited with all ~~his~~ service as a member and also with the period of disability retirement, ~~provided that during such period of disability he has not engaged in a gainful occupation from which his net earnings exceeded the difference between his disability retirement allowance and the amount he would have received for said period if his compensation at the time of disability had continued~~.

Sec. 34. Section 411.6, subsection 8, paragraphs b, d, and e, Code 1981, are amended to read as follows:

b. If there ~~be~~ is no ~~such~~ nomination of beneficiary, the benefits provided in paragraph "a" 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~~ beneficiaries, for a member in service, ~~there shall be paid~~ at the time of death a pension ~~which~~ shall be paid equal to one-fourth

of the average final compensation of ~~such~~ the member, but in no instance less than seventy-five dollars. ~~In addition to the benefits herein enumerated, there~~ There shall also be paid for each child of a member ~~under the age of eighteen years~~ 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 that 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, 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. The pension shall resume commencing when the member would have attained the age of fifty-five;

d. If there ~~be~~ is no spouse, or if the spouse dies or remarries ~~before any child of such deceased member shall have attained the age of eighteen years~~ and there is a child of a member, then to the guardian of ~~his or her~~ the member's child or children ~~under said age~~, divided ~~in such manner~~ as the board of trustees ~~in its discretion shall determine~~ determines, to continue as a joint and survivor pension until every ~~such~~ child of the member dies or attains the age of eighteen or twenty-two if applicable; or

e. If there ~~be~~ is no surviving spouse or child ~~under age eighteen~~, then to ~~his or her~~ the member's dependent father or mother or both, as the board of trustees ~~in its discretion shall determine~~ determines, to continue until remarriage or death.

Sec. 35. Section 411.6, subsection 9, paragraphs a and b, Code 1981, are amended to read as follows:

a. A pension equal to one-half of the average final compensation of ~~such~~ the member shall be paid to 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~~ There shall also be paid for each ~~dependent~~ child of a member ~~under the age of eighteen years~~ 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.

b. If there ~~be~~ is no spouse, ~~children under the age of eighteen years~~ child, or dependent parent surviving ~~such~~ a deceased member, the death shall be treated as an ordinary death case and the benefit payable ~~in accordance with the provisions of~~ under subsection 8, paragraph "a", in lieu of the pension provided in paragraph "a" of this subsection ~~9~~, shall be paid to the member's estate.

Sec. 36. Section 411.6, subsection 11, paragraph b, Code 1981, is amended to read as follows:

b. ~~In the event of the death of~~ If the spouse dies either prior or subsequent to the death of the member, to the guardian of each surviving child ~~under eighteen years of age~~, a monthly pension equal to the monthly pension payable under subsection 9 of this section for the support of ~~such~~ the child.

Sec. 37. Section 411.6, subsection 12, paragraph a, unnumbered paragraph 1, Code 1981, is amended to read as follows:

~~Effective July 1, 1980, and on~~ On each July 1 ~~thereafter~~ and January 1, the monthly pensions authorized in this section payable to retired members and to beneficiaries, except children of a

deceased member, shall be adjusted as provided in this paragraph. An amount equal to the following percentages of the difference between the monthly earnable compensation payable to an active member of the department, of the same rank and position on the salary scale as was held by the retired or deceased member at the time of the member's retirement or death, for ~~July of the preceding year~~ the month in which the last preceding adjustment was made and the monthly earnable compensation payable to an active member of the department of the same rank and position on the salary scale for ~~July of the year just beginning~~ the month in which the adjustment is made shall be added to the monthly pension of each retired member and each beneficiary as follows:

Sec. 38. Section 411.6, subsection 12, paragraph a, unnumbered paragraph 4, Code 1981, is amended to read as follows:

As of ~~the first of~~ July 1 and January 1 of each year, the monthly pension payable to each surviving child under the provisions of subsections 8, 9, and 11 of this section shall be adjusted to equal six percent of the monthly earnable compensation payable on that July 1 or January 1 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. 39. Section 411.6, subsection 12, paragraphs b and d, Code 1981, are amended to read as follows:

b. All monthly pensions adjusted as provided in this subsection shall be payable beginning on July 1 and January 1 of the year in which the adjustment is made and shall continue in effect until the next ~~following July 1~~ adjustment at which time the monthly pensions shall again be adjusted in accordance with paragraph "a" of this subsection.

d. A retired member eligible for benefits under ~~the provisions of~~ subsection 1 of this section is not eligible for the ~~annual~~ readjustment of pensions provided in this subsection unless the member served twenty-two years and attained the age of fifty-five years prior to ~~his~~ the member's termination of employment.

Sec. 40. Section 411.7, subsection 2, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

2. The city treasurer may invest at the direction of the respective boards of trustees a portion of the funds established in section 411.8 which in the judgment of the respective boards are not needed for current payment of benefits under this chapter in investments authorized in section 97B.7, subsection 2, paragraph b, for moneys in the Iowa public employees' retirement fund.

Sec. 41. Section 411.8, subsection 1, paragraph f, Code 1981, is amended to read as follows:

f. An amount equal to ~~two~~ three and ~~twenty-one hundredths~~ one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund.

Sec. 42. Section 411.11, Code 1981, is amended to read as follows:

411.11 CONTRIBUTIONS BY THE CITY. On or before January 1 of each year the respective boards of trustees shall certify to the superintendent of public safety the amounts which will become due and payable during the year next following to the pension accumulation fund and the expense fund. The amounts so certified shall be included by the superintendent of public safety in ~~his~~ the annual budget estimate. The amounts so certified shall be appropriated by the ~~said~~ respective cities and transferred to the retirement system for the ensuing year. ~~Said~~ The cities shall annually levy a tax sufficient in amount to cover ~~such~~ the appropriations.

However, the amounts due and payable for a retirement system during its first year, or portion of a year, of operation shall be determined using the rates of contribution adopted by the board of trustees.

Sec. 43. Section 411.19, Code 1981, is amended to read as follows:

411.19 TRANSFER OF BENEFITS TO ANOTHER CITY. A member of a retirement system established in this chapter who terminates employment with a city and is subsequently employed by another city and is eligible for coverage under this chapter, or who transfers in the same city from one retirement system under this chapter to another retirement system under this chapter, may transfer membership service earned under the first system to the system under which the member is employed. Upon the written request of the member with verification by the board of trustees of the system under which the member is employed, the board of trustees of the first system shall transmit to the board of trustees of the system under which the member is employed, within thirty days of the receipt of the request, the member's accumulated contributions ~~to be deposited in the annuity savings fund of the system under which the member is employed~~ and the actuarial equivalent of the amount in the pension accumulation fund which would be necessary to fund a pension equal to one twenty-second times the number of years of membership service completed, under the first system, to be deposited in the pension accumulation fund of the system under which the member is employed.

Sec. 44. Section 411.20, Code 1981, is amended to read as follows:

411.20 APPROPRIATION TO MUNICIPAL ASSISTANCE FUND.

1. There is appropriated from the general fund of the state to the municipal assistance fund established in chapter 405 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 1089.

2. Commencing with the fiscal year beginning July 1, 1979 for retirement systems in existence on June 30, 1978, 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 1089 shall be computed by the actuary employed by the respective board of trustees on the basis of the results of actuarial ~~studies~~ valuations performed by ~~such~~ the 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 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~~ retirement system times the payroll of the active members employed under that system ~~by that city~~ for the fiscal year.

3. For retirement systems established on or after July 1, 1978, the amounts distributed to cities shall be computed in the manner provided in subsections 1 and 2 by the actuary employed by the respective board of trustees on the basis of results of actuarial valuations performed by the actuary for the first fiscal year, or portion of a fiscal year, and the second fiscal year for which this chapter applies. The results of the actuarial valuations for the first fiscal year, or portion of a fiscal year, for which this chapter applies, shall determine the state's portion of the costs for that fiscal year, or portion of a fiscal year. The results of the actuarial valuations for the first two fiscal years, or for a portion of the first fiscal year and all of the second fiscal year shall determine the state's portion of the costs for the second and later fiscal years. Payment shall be made based upon the ratio of payroll determined in the manner provided in subsection 2.

Sec. 45. Section 411.21, subsection 7, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Notwithstanding subsections 1, 3, 4, 5 and 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~~ the member's accumulated contributions from the annuity savings fund and remain eligible to receive benefits under section 411.6. However, a member with fifteen or more years of service prior to July 1, 1979, is not eligible for a service retirement allowance under section 411.6 if ~~he or she~~ the member withdrew ~~his or her~~ the member's accumulated contributions from the annuity savings fund after July 1, 1972 but prior to July 1, 1979, except as provided in section 411.4. Accumulated contributions shall be paid according to the following schedule:

Sec. 46. Pensions payable under section 45 of this Act shall commence July 1, 1982 for a member or a member's spouse.

Sec. 47. Payment of benefits to a child, as defined in sections 1 and 26 of this Act, under sections 6, 7, 8, 34, 35, and 36 of this Act is retroactive to July 1, 1981.

Approved May 22, 1982, except the two items which I hereby disapprove and which are designated as Section 12, and the portion of Section 23, which is herein bracketed in ink and initialed by me. These are delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State, a copy of which is attached hereto.

ROBERT D. RAY
Governor

The Honorable Mary Jane Odell
Secretary of State
State Capitol Building
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 2178, an act relating to the administration and benefits of public retirement systems.

Senate File 2178 is approved May 22, 1982, with the following exceptions which I hereby disapprove.

I am unable to approve the item designated in the act as Section 12 which reads as follows:

Sec. 12. Section 97B.11, Code 1981, 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~~ seven-tenths percent of the covered wages paid by the employer through ~~June 30, 1979~~ December 31, 1984, and commencing ~~July 1, 1979~~ January 1, 1985, in the amount of three and ~~seven-tenths~~ eight-tenths percent of the covered wages paid by the employer, until the first of the month 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~~ seventy-five hundredths percent of the covered wages of the member for service ~~commencing July 1, 1977~~ through ~~June 30, 1979~~ December 31, 1984, and in the amount of ~~five and seventy-five~~ six and twenty-five hundredths percent of the covered wages of the member for service commencing ~~July 1, 1979~~ January 1, 1985.

I am unable to approve the item designated in the act as Section 23, Subsection b, numbered subparagraphs 1, 2, 3, and 4 which read as follows:

b. (1) There is appropriated annually from the general fund of the state to the Iowa department of job service to be deposited in the Iowa public employees' retirement fund, to pay for the benefit increases provided in this subsection, except as otherwise provided in this subsection, the sum of two million two hundred seventeen thousand dollars per year, commencing with the fiscal year beginning July 1, 1982 and through the fiscal year beginning July 1, 2001, for each fiscal year in which the unobligated state general fund balance on June 30 of the preceding fiscal year as certified by the state comptroller by the following September 10 is more than thirty-five million dollars.

(2) If the unobligated state general fund balance on June 30 of any year from 1982 through 2001 as certified by the state comptroller by the following September 10 is less than thirty-five million dollars, the cost of benefit increases provided in this subsection of two million two hundred seventeen thousand dollars per year for the fiscal year following that June 30 shall be absorbed by the Iowa public employees' retirement fund.

(3) If the unobligated state general fund balance on June 30 of any year from 1982 through 2001, minus the amount appropriated in subparagraph (1), is more than thirty-five million dollars as certified by the state comptroller by the following September 10 and the cost of the benefit increases provided in this subsection during that fiscal year, or any previous fiscal year, has been absorbed by the Iowa public employees' retirement fund and has not previously been repaid from the state general fund in the manner provided in this subparagraph, there is appropriated from the general fund of the state to the Iowa department of job service for the fiscal year beginning the following July 1 two million two hundred seventeen thousand dollars to be deposited in the Iowa public employees' retirement fund to pay the cost of the benefit increases provided in this subsection and absorbed by the Iowa public employees' retirement fund for a previous fiscal year or portion of a fiscal year.

(4) Notwithstanding subparagraphs (1) and (3), funds appropriated in subparagraphs (1) and (3) for a fiscal year shall not exceed the amount by which the unobligated state general fund balance on June 30 of a fiscal year as certified by the state comptroller by the following September 10 exceeds thirty-five million dollars.

Senate File 2178 significantly and appropriately upgrades the benefits for public employees who retire under the IPERS system. Employee wages covered under the system are raised from $20,000 to $21,000 on January 1, 1984, and to $22,000 on January 1, 1986. Retirement benefit levels will be calculated by using the highest five years of wages earned rather than the highest five consecutive years. The retirement benefits will then be equal to 50 percent of these highest five years of wages earned rather than the 47 percent level now in the law. And, the maximum benefits for the pre-1976 IPERS retirees will be increased by up to $30 per month.

While these benefit increases are appropriate, they also up the demands on the IPERS fund. Section 12 and a portion of Section 23 of Senate File 2178 were apparently included in the bill to address that concern.

Section 12 increases the contribution rate for employers in IPERS from 5.75 to 6.25 percent of all covered wages on January 1, 1985. At the same time, the employee contribution rate is increased from 3.7 to 3.8 percent of covered wages. This would result in an annual $8.2 million increase in the employer contribution, and a $1.6 million increase in the employees' contribution. This contribution increase would affect the IPERS employers and employees as follows:

Government Entity	Employer Contribution of $8,189,353	Employee Contribution of $1,637,871
State	$1,345,511	$269,102
Regents	131,030	26,206
Counties	1,194,827	238,965
Cities	909,018	181,804
Township	819	164
Schools	4,209,327	841,866
Multiple Units	336,582	67,316
Utilities	62,239	12,448
Total	$8,189,353	$1,637,871

While this would generate substantial revenue for the IPERS fund, it would also burden financially strapped local governments with a state-mandated contribution increase. Without provisions to assist local governments in handling these increased financial demands, this section of the bill could force some local governments to increase property taxes. That is not fair play.

Moreover, it is apparent that the increase in IPERS benefits provided for in the bill can be paid for without a contribution increase. Present benefit levels are significantly less than the level of contributions to the fund. This fact, combined with the increased contributions associated with hiking the covered wages and the substantial investment income in the fund, ensure the actuarial soundness of IPERS without a contribution rate increase now or in 1985.

Therefore, by disapproving Section 12, IPERS benefits will be appropriately increased, local governments will be spared the extra financial burden resulting from a state-mandated contribution hike and the IPERS fund will remain sound for the future.

Subsection b, numbered subparagraphs 1, 2, 3, and 4 were apparently added by the legislature as an alternative method of financing the increased benefits granted to pre-1976 retirees in the bill. These subparagraphs appropriate from the state general fund $2.2 million to the IPERS fund for each of the next 20 years in order to pay for the anticipated cost of the pre-1976 retiree benefits. However, the general fund appropriation is to be made only when the fund has a balance sufficient to make the appropriation while maintaining at least a $35 million balance. In addition, a $4.4 million appropriation must be made from the general fund if a previous year's balance was insufficient to allow for that year's appropriation.

These provisions are unwieldy and unnecessary. Despite the $35 million trigger established in the bill, the Comptroller would be required to set aside each year's appropriation. This would effectively prevent the use of the $2.2 million in fiscal year 1983 and in the 19 ensuing fiscal years. The state can ill afford to have the small 1983 general fund balance reduced even further by this bill. Moreover, the provisions for the retroactive payment of a previous year's unfunded appropriation would be difficult to administer and would further drain the state general fund.

In addition, as was mentioned previously, the IPERS fund can safely absorb the cost of the pre-1976 retiree benefit increase with the contributions provided in the bill. Therefore, it would appear unnecessary to appropriate additional state general funds to IPERS.

The remaining sections of Senate File 2178 provide for significant benefit increases for state and local peace officers and firemen in cities of over 8,000 population. The bill provides that the calculation of pension benefits for these employees is to be based on the high three rather than the high five years of salary. This is an appropriate change for several reasons:

—It takes into account the disparity between IPERS retirees, who get Social Security as well as IPERS benefits, and peace officers and firemen who are not covered under Social Security.

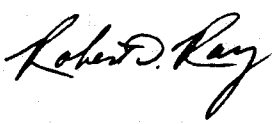
—The change makes Iowa's peace officer retirement system more competitive with those of our neighboring states.

—The bill also provides a mechanism for the employees to at least partially pay for this benefit increase by adding .89 percent to the employee contribution rate. The extent to which this contribution rate hike will actually pay for the benefits granted to local peace officers and firemen was the subject of considerable confusion during the closing hours of the legislative session and remains subject to some debate. I urge the legislature next year to re-examine the relationship of the contribution rate increase to the fiscal impact of the high three on local governments. If it is determined that the rate hike is not sufficient to cover the costs of the high three, the legislature should take action to adjust the employee contribution rate or provide the necessary funding to cities through the Municipal Assistance Fund.

Senate File 2178 also allows peace officers in the cities under 8,000 to satisfy IPERS requirements with 25 years of service and a retirement age of 60. This appears to be an appropriate change since it makes the pension benefits for these peace officers more compatible with those of their counterparts in cities over 8,000 and with state peace officers. However, the cost of this change for these cities has also been the subject to debate. Since this provision is not effective until July 1, 1983, the legislature next year will have the time to review and to address its fiscal impact.

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 Senate File 2178 are hereby approved as of this date.

Sincerely,



Robert D. Ray
Governor

CHAPTER 1262

APPROPRIATION AND TRANSFER OF FEDERAL BLOCK GRANT FUNDS

H.F. 2477

AN ACT appropriating federal funds made available from federal block grants, allocating portions of federal block grants, transferring funds between federal block grants, and providing procedures if federal funds are more or less than anticipated or if federal block grants are consolidated or expanded.

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

DIVISION I

Section 1. COMMUNITY SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the office for planning and programming, the sum of three million eight hundred eighty-seven thousand (3,887,000) dollars for the fiscal period beginning October 1, 1982 and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title VI, Subtitle B, which provides for the community services block grant. The office for planning and programming shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

The director of planning and programming shall allocate the amount of financial assistance based upon the size of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding one hundred twenty-six thousand (126,000) dollars of the funds appropriated in subsection 1 shall be used by the office for planning and programming for administrative expenses. From the funds set aside by this subsection for administrative expenses, the office for planning and programming shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the office for planning and programming for the costs of the audit.

Sec. 2. ALLOCATION OF FISCAL YEAR 1982 COMMUNITY SERVICES APPROPRIATIONS. Five percent of the federal fiscal year 1982 funds made available to the state under Pub. L. No. 97-35, Title VI, Subtitle B, which provides for the community services block grant, may be allocated by the office for planning and programming for one or more of the following programs:

1. Additional support to community action agencies.

2. Services provided under the Older Americans Act of 1965 under Pub. L. No. 89-73, as amended.

3. Services provided under the head start program under Pub. L. No. 97-35, Title VI, Subtitle A, chapter 8, subchapter b.

4. Services provided under the energy crisis intervention program under Pub. L. No. 97-35, Title XXVI.

Sec. 3. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the office for planning and programming, the sum of twenty-four million nine hundred eight thousand (24,908,000) dollars for the fiscal period beginning October 1, 1982 and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title III, Subtitle A, which provides for the community development block grant. The office for planning and programming shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding seven hundred forty-seven thousand (747,000) dollars shall be used by the office for planning and programming for administrative expenses for the community development block grant. The amount used for administrative expenses includes three hundred seventy-three thousand five hundred (373,500) dollars of funds appropriated in subsection 1 and a matching contribution from the state equal to three hundred seventy-three thousand five hundred (373,500) dollars from the appropriation of state funds for the community development block grant and state appropriations for related activities of the office for planning and programming. The total administrative expenses at the state level, from both federal and state sources, shall not exceed three percent of the amount appropriated in subsection 1. From the funds set aside for administrative expenses by this subsection, the office for planning and programming shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the office for planning and programming for the costs of the audit.

3. An amount not exceeding ten percent of the grants made by the office for planning and programming from funds appropriated in subsection 1 shall be used for local administrative expenses.

DIVISION II

Sec. 4. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the energy policy council, the sum of thirty-two million five hundred thousand (32,500,000) dollars for the fiscal period beginning October 1, 1982 and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title XXVI, which provides for the low-income home energy assistance block grants. The energy policy council shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding two million four hundred thirty-seven thousand five hundred (2,437,500) dollars or nine percent of the funds appropriated in subsection 1, whichever is less, shall be used by the energy policy council for administrative expenses. From the funds set aside by this subsection for administrative expenses, an amount sufficient to pay the cost of an audit of the use and administration of the state's portion of the funds appropriated shall be paid. The auditor shall bill the energy policy council for the costs of the audit.

3. The remaining funds appropriated in this section shall be allocated to help eligible households, as defined in accordance with Pub. L. No. 97-35, to meet the costs of home energy. However, at least ten and not more than fifteen percent of the funds appropriated by this section shall be used to provide for low-income residential weatherization or other related home repairs for low-income households. The funds transferred to low-income weatherization shall include money for administrative expenses.

DIVISION III

Sec. 5. SOCIAL SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the department of social services, the sum of thirty million six hundred seventy-four thousand (30,674,000) dollars for the fiscal period beginning October 1, 1982, and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title XXIII, Subtitle C, which provides for the social services block grant. The department of social services shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A. However, it is the intent of the general assembly that in this exemption from the notice and public participation requirements of chapter 17A, the Code shall be utilized by the department only to the extent necessary to insure that these rules are in effect in a timely manner to implement the provisions of this Act. Any rule placed into immediate effect pursuant to this section shall also be proposed as a notice of intended action as provided in section 17A.4(1), the Code.

2. No more than one million nine hundred one thousand seven hundred eighty-eight (1,901,788) dollars of the funds appropriated in subsection 1 shall be used by the department of social services for general administration for the federal fiscal year beginning October 1, 1982 and ending September 30, 1983. From the funds set aside by this subsection for general administration, the department of social services shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department of social services for the costs of the audit.

3. In addition to the allocation for general administration in subsection 2, the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for the federal fiscal year beginning October 1, 1982 and ending September 30, 1983 for the following programs within the department of social services:

a. Field operations $12,453,644
b. Home-based services ..... $ 153,370
c. Foster care ..... $ 4,539,752
d. Community-based services ..... $ 122,696
e. Local administrative costs and purchase of day care and other local services $11,502,750

Sec. 6. SOCIAL SERVICES BLOCK GRANT PLAN. The department of social services shall develop a plan for the utilization of federal social services block grant funds for the state fiscal year beginning July 1, 1983, and ending June 30, 1984.

The proposed plan shall include all programs and services at the state level which the department proposes to fund with federal social services block grant funds, and shall identify state and other funds which the department proposes to use to fund the state programs and services.

The proposed plan shall also include all local programs and services which are eligible to be funded with federal social services block grant funds, the total amount of federal social services block grant funds available for the local programs and services, and the manner of distribution of the federal social services block grant funds to the counties. The proposed plan shall identify state and local funds which will be used to fund the local programs and services.

The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

DIVISION IV

Sec. 7. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES APPROPRIATION.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the department of substance abuse, two million forty-eight thousand (2,048,000) dollars for the fiscal period beginning October 1, 1982, and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title IX, Subtitle A, which provides for the alcohol and drug abuse and mental health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding two hundred one thousand four hundred (201,400) dollars of the funds appropriated in subsection 1 shall be used by the department of substance abuse for administrative expenses. From the funds set aside by this subsection for administrative expenses, the department of substance abuse shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department of substance abuse for the costs of the audit.

3. After deducting the funds allocated in subsection 2, the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the department of substance abuse:

a. Drug abuse programs ..... 38.17 percent

b. Alcohol abuse programs ..... 38.17 percent

c. Alcohol and drug prevention programs ..... 21.81 percent

One and eighty-five hundredths percent of the remaining funds appropriated in subsection 1 shall be transferred to the division of mental health, mental retardation, and developmental disabilities within the department of social services and allocated for community mental health centers.

Sec. 8. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the state department of health, the sum of three million nine hundred seventy thousand four hundred sixty-seven (3,970,467) dollars for the fiscal period beginning October 1, 1982, and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title XXI, Subtitle D, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. The funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the following divisions of the state department of health:

a. Personal and family health division for sudden infant death counseling ..... 1.0 percent

b. Personal and family health division for maternal and child health formula grants ..... 62.0 percent

Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be transferred to the university of Iowa hospitals and clinics under the control of the state board of regents for specialized child health services.

3. An amount not exceeding one hundred twelve thousand two hundred (112,200) dollars of the funds allocated in subsection 2 to the state department of health shall be used by the state department of health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the state department of health shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state department of health's portion of the funds allocated in subsection 2. The auditor of state shall bill the state department of health for the costs of the audit.

4. If the federal women, infants, and children nutrition program is consolidated into the maternal and child health services block grant, the specific dollar amount allocated by the federal government to the state above the amount appropriated in subsection 1 shall be allocated to the women, infants, and children nutrition program. The administrative expenses specified in subsection 3 shall not be increased by more than the percentage of the state's total allocation for indirect costs allowed by federal law for the women, infants, and children nutrition program.

5. The state department of health, Iowa specialized child health services, the university of Iowa hospitals and clinics, and the department of social services shall jointly study and develop a plan for the integration and coordination of maternal and child health programs, including but not limited to prenatal clinics; obstetric clinics; maternal health centers; child health centers; well-child clinics; the women, infants, and children nutrition program; the maternity and infant care project; the children and youth project; dental clinics; specialized child health clinics; related medical assistance programs, including the early and periodic screening, diagnosis, and treatment program, and medical assistance reimbursements for maternal and child health services; and county maternal and child health programs. The plan shall provide, if possible, for locating the clinics at the same sites and for the sharing of administrative expenses. The plan and proposed implementation schedule shall be developed and submitted to the joint human resources appropriations subcommittee by January 31, 1983.

Sec. 9. TRANSFER OF FUNDS. Those federal maternal and child health services block grant funds transferred from the federal preventive health and health services block grant funds under section 10, subsection 4 of this Act for the federal fiscal year beginning October 1, 1982, and ending September 30, 1983, are transferred from the state department of health to the university of Iowa hospitals and clinics under the control of the state board of regents for specialized child health services.

Sec. 10. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the state department of health, one million sixty-one thousand (1,061,000) dollars for the fiscal period beginning October 1, 1982, and ending September 30, 1983. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1983 under Pub. L. No. 97-35, Title IX, Subtitle A, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding ninety-eight thousand seven hundred (98,700) dollars of the funds appropriated in subsection 1 shall be used by the state department of health for administrative expenses. From the funds set aside by this subsection for administrative expenses, the state department of health shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the state department of health for the costs of the audit.

3. Of the funds appropriated in subsection 1, the specific amount of funds required by Pub. L. No. 97-35, Title IX, Subtitle A, shall be allocated to the rape prevention program.

4. Pursuant to Pub. L. No. 97-35, Title IX, Subtitle A, seven percent of the funds appropriated in subsection 1 is transferred within the special fund in the state treasury established under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, for use by the state department of health as authorized by Pub. L. No. 97-35, Title XXI, Subtitle D and section 9 of this Act.

5. After deducting the funds allocated and transferred in subsections 2, 3, and 4, the remaining funds appropriated in subsection 1 shall be allocated according to the following percentages to supplement appropriations for the following programs within the following divisions of the state department of health:

a. Disease prevention division for hypertension grants ..... 15.2 percent

b. Disease prevention division for risk reduction services ..... 21.0 percent

c. Community health division and disease prevention division for health incentive grants ..... 17.9 percent

d. Community health division for emergency medical services ..... 30.0 percent

e. Personal and family health division for fluoridation grants ..... 15.9 percent

DIVISION V

Sec. 11. EDUCATION APPROPRIATIONS.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the department of public instruction for the fiscal year beginning July 1, 1982 and ending June 30, 1983, the amount received from Pub. L. No. 97-35, Title V, Subtitle D, chapter 2, not to exceed five million three hundred thirty-eight thousand (5,338,000) dollars, which provides for the education block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Twenty percent of the funds appropriated in subsection 1, not to exceed one million sixty-seven thousand six hundred (1,067,600) dollars, shall be used by the department for basic skills development, state leadership and support services, educational improvement and support services, special projects, and state administrative expenses and auditing. However, not more than two hundred fifty thousand (250,000) dollars shall be used by the department for state administrative expenses.

3. Eighty percent of the funds appropriated in subsection 1 shall be allocated by the department to local educational agencies in this state, as local educational agency is defined in Pub. L. No. 97-35, Title V, Subtitle D. The amount allocated under this subsection shall be allocated to local educational agencies according to the following percentages and enrollments.

a. Seventy-five percent shall be allocated on the basis of enrollments in public and approved nonpublic schools.

b. Twenty percent shall be allocated on the basis of the number of disadvantaged children in local educational agencies whose incidence ratio for disadvantaged children is above the state average incidence ratio.

c. Five percent shall be allocated on the basis of the number of limited English speaking children whose language imposes a barrier to learning.

Sec. 12. Funds appropriated in section 11 of this Act shall not be used to aid schools or programs that illegally discriminate in employment or educational programs on the basis of sex, race, color, national origin, or disability.

DIVISION VI

Sec. 13. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. Except for section 11 of this Act, if the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the rape prevention program under section 10, subsection 3, of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the standing committees of the senate and house on appropriations, the director of the legislative fiscal bureau, and the appropriate chairpersons and ranking members of subcommittees of those committees shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

Sec. 14. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government from block grants exceed the amounts appropriated in sections 5, 7, 8 except subsection 4 of section 8, 10, and 11, subsection 3, of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

2. If funds received from the federal government from block grants exceed the amounts appropriated in sections 1, 3, and 11, subsection 2, of this Act, the excess shall be deposited in the special fund created in Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3 and be subject to appropriation by the general assembly.

3. If funds received from the federal government from block grants exceed the amounts appropriated in section 4 of this Act, one hundred percent of the excess shall be allocated to the low-income weatherization program.

Sec. 15. PROCEDURE FOR CONSOLIDATED OR EXPANDED FEDERAL BLOCK GRANTS. Notwithstanding Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, federal funds made available to the state which are authorized for the 1983 federal fiscal year resulting from the federal government consolidating former categorical grants into block grants, or which expand block grants which are included in Pub. L. No. 97-35, to include additional programs formerly funded by categorical grants, which are not otherwise appropriated by the general assembly, are appropriated for the programs formerly receiving the categorical grants, subject to the conditions of this section. The governor shall, whenever possible, allocate from the block grant to each program in the same proportion as the amount of federal funds received by the program during the 1982 federal fiscal year as modified by the 1982 Session of the Sixty-ninth General Assembly for the fiscal year beginning July 1, 1982 compared to the total federal funds received in the 1982 federal fiscal year by all programs consolidated into the block grant. However, if one agency did not have categorical funds

appropriated for the federal fiscal year ending September 30, 1982 but had anticipated applying for funds during the fiscal year ending September 31*, 1983, the governor may allocate the funds in order to provide funding.

If the amount received in the form of a consolidated or expanded block grant is less than the total amount of federal funds received for the programs in the form of categorical grants for the 1982 federal fiscal year, state funds appropriated to the program by the general assembly to match the federal funds shall be reduced by the same proportion of the reduction in federal funds for the program. State funds released by the reduction shall be deposited in a special fund in the state treasury and are available for appropriation by the general assembly. The governor shall notify the chairpersons and ranking members of the senate and house committees on appropriations, the legislative fiscal director, and the appropriate chairpersons and ranking members of the subcommittees of those committees before making the allocation of federal funds or any proportional reduction of state funds under this section. The notice shall state the amount of federal funds to be allocated to each program, the amount of federal funds received by the program during the 1982 federal fiscal year, the amount by which state funds for the program will be reduced according to this section and the amount of state funds received by the program during the 1982 fiscal year. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

If the amount received in the form of a consolidated or expanded block grant is more than the total amount of federal funds received for the programs in the form of categorical grants for the 1982 federal fiscal year, the excess funds shall be deposited in the special fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, and be subject to the provisions of that section.

Sec. 16. PROCEDURE FOR FUTURE FEDERAL ACTIONS.

1. If federal block grant funding is increased or decreased for the federal fiscal year following the year for which the block grants are appropriated by this Act, the actions prescribed in sections 13 and 14 of this Act shall be modified by the governor as allowed by federal law in order that a consistent plan will be available for the affected state fiscal years.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the standing committees of the senate and house on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, and the director of the legislative fiscal bureau shall be notified of the proposed action.

b. The notice shall include the proposed allocations, information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

Approved May 21, 1982

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* According to enrolled Act

CHAPTER 1263

APPROPRIATION OF FEDERAL FUNDS TO ENERGY POLICY COUNCIL

H.F. 2482

AN ACT to appropriate federal funds received for federal fiscal year 1982 to the energy policy council effective upon publication.

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

Section 1.

1. There is appropriated from the fund created by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 3, subsection 1, to the energy policy council, the sum of thirty-four million eight hundred forty-five thousand one hundred seventy-eight (34,845,178) dollars. The funds appropriated by this section are the anticipated funds to be received from the federal government for federal fiscal year 1982 under Pub. L. No. 97-35, Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and are subject to the transfer made by House File 2336, section 13, enacted by the Sixty-ninth General Assembly, 1982 Session and the transfer made by section 2 of this Act. The energy policy council shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not exceeding two million six hundred thousand (2,600,000) dollars of the funds appropriated in subsection 1 shall be used by the department for administrative expenses. From the two million six hundred thousand (2,600,000) dollars, an amount sufficient to pay the cost of an audit of the use and administration of the state's portion of the funds appropriated shall be paid. The auditor shall bill the energy policy council for the state's portion of auditing for the federal funds.

3. The remaining funds appropriated in this section shall be allocated to help eligible households as defined in accordance with Pub. L. No. 97-35 to meet the costs of home energy. However, at least twelve and one-half percent and not more than fifteen percent of thirty-two million five hundred fifty-five thousand six hundred seventy-one (32,555,671) dollars of the funds appropriated by subsection 1 shall be used for low-income residential weatherization or other related home repairs for low-income households. The funds transferred to low-income weatherization shall include money for administration.

4. The appropriation made by subsection 1 is in lieu of the appropriation made by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 17, section 4.

Sec. 2. In addition to the transfer made by House File 2336, section 13 enacted by the Sixty-ninth General Assembly, 1982 Session and pursuant to section 2604 of the federal Omnibus Reconciliation Act of 1981, one million six hundred fifty-five thousand (1,655,000) dollars of this state's allotment of funds under the federal Low-Income Home Energy Assistance Act of 1981, section 2601 et. seq., of the federal Omnibus Reconciliation Act of 1981 is transferred and appropriated to the department of social services for use authorized by the federal Social Services Block Grant Act, section 2351 et. seq., of the federal Omnibus Reconciliation Act of 1981. This appropriation is for the fiscal year beginning July 1, 1982 and ending on June 30, 1983. State funds in the same amount as the transfer appropriated to the department of social services for those uses for which the funds transferred by this section are authorized shall revert to the general fund of the state.

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in The Hudson Herald, a newspaper published in Hudson, Iowa, and in The Algona Upper Des Moines, a newspaper published in Algona, Iowa.

Approved May 19, 1982

I hereby certify that the foregoing Act, House File 2482 was published in The Hudson Herald, Hudson, Iowa on May 27, 1982 and in The Algona Upper Des Moines, Algona, Iowa on May 27, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1264

APPROPRIATION OF FUNDS FOR CAPITAL EXPENDITURES OF THE IOWA STATE CONSERVATION COMMISSION

H.F. 2494

AN ACT appropriating funds to the state conservation commission for capital expenditures and land acquisition.

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 conservation commission for the fiscal period beginning July 1, 1982 and ending June 30, 1985 the amount of seven hundred forty-four thousand (744,000) dollars, or as much as is necessary to be expended by the commission for projects highest on the priority list submitted to the joint appropriations subcommittee and approved by the commission for construction, replacement, development, and alterations to state parks and preserves, state forest facilities and state waters, engineering and planning services, or to supplement any prior appropriation for such purposes or for the open spaces land acquisition program. Any unencumbered or unobligated funds appropriated by this section remaining on June 30, 1985 shall revert to the general fund on September 30, 1985.

Approved May 22, 1982

CHAPTER 1265

GLENN GROVER HERRICK BEQUEST TO BE USED FOR STATE HISTORICAL BUILDING OR CENTER

H.J.R. 2003

A JOINT RESOLUTION relating to the bequest of Glenn Grover Herrick to the state of Iowa and making an appropriation.

WHEREAS, Mr. Glenn Grover Herrick bequeathed considerable funds from his estate to be used for the purchase or construction of one or more public improvements of relative permanence to be selected by the Iowa general assembly and approved by the governor.

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

Section 1. The funds bequeathed by Mr. Glenn Grover Herrick from his estate are accepted and shall be deposited in a special fund in the state treasury and the principal of such funds be subject to appropriation for the construction of a new state historical building or center. Interest or earnings from the investment of the principal of the special fund shall be appropriated annually, consistent with the terms of the bequest, for projects other than a new state historical building or center as selected by the general assembly and approved by the governor upon recommendations by the committee created in section 4 of this Act.

Sec. 2. The capitol planning commission shall be primarily responsible for the planning of the new historical building or center but shall consult with the state historical department, the state historical society, the committee created in section 4 of this Act, and other persons it determines can provide useful information for planning the building or center.

Sec. 3. The general assembly shall appropriate the funds deposited in the special fund created in section 1 of this Act to the state department of general services for construction of the new state historical building or center when it is determined that sufficient funds from all sources are available for completion of the building or center.

Sec. 4. Interest or earnings from investments of the funds in the special fund shall be credited to the special fund and invested in the manner provided in section 453.7. The governor shall appoint a committee to make recommendations to the general assembly annually regarding the disposition of interest or earnings credited to the special fund that are subject to appropriation for other projects. The committee shall be composed of two members of the senate, two members of the house of representatives and five citizens of the state. Not more than one senator, one representative and three of the citizens, respectively, shall be members of the same political party.

Sec. 5. If the state receives other funds for the construction of a new state historical building or center, those funds shall be deposited in the special fund and any interest or earnings on those funds shall be credited to the special fund and added to the principal unless the donor of those funds has provided otherwise as a condition of the gift.

Approved May 17, 1982

CHAPTER 1266

LEGISLATIVE NULLIFICATION OF AN ADMINISTRATIVE RULE

First Time Passed

S.J.R. 6

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa to allow the legislature to void a rule of a state agency by concurrent resolution.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Article III, Legislative Department, Constitution of the State of Iowa, is amended by adding the following new section:

NEW SECTION. The general assembly may nullify an adopted administrative rule of a state agency by the passage of a resolution by a majority of all of the members of each house of the general assembly.

Sec. 2. The foregoing proposed amendment to the Constitution of the State of Iowa is referred to the general assembly to be chosen at the next general election for members of the general assembly and the secretary of state is directed to cause it to be published for three consecutive months previous to the date of that election as provided by law.

CHAPTER 1267

DISTRIBUTION OF MONEY FOR SUPPORT AND MAINTENANCE OF COMMON SCHOOLS

First time passed

S.J.R. 13

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa relating to the distribution of money subject to the support and maintenance of common schools.

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

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Section 7, subdivision 2 entitled "School Funds and School Lands", of Article IX of the Constitution of the State of Iowa is repealed.

Sec. 2. The foregoing proposed amendment to the Constitution of the State of Iowa is referred to the general assembly to be chosen at the next general election for members of the general assembly and the secretary of state is directed to cause it to be published for three consecutive months before the date of that election as provided by law.

RULES OF CIVIL PROCEDURE

CHAPTER 1268

RULES OF CIVIL PROCEDURE

[See also chapter 1130 herein]

IN THE MATTER OF THE RULES OF CIVIL PROCEDURE } REPORT OF THE SUPREME COURT

TO THE 1982 REGULAR SESSION OF THE SIXTY-NINTH 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 82(g).

That rule 82(g) be amended as follows:

"(g) Proof of Service. Proof of service of all papers required or permitted to be served~~,~~ shall be filed in the clerk's office promptly, and, in any event, before action is to be taken thereon by the court or the parties. The proof shall show the time and manner of service and the names and addresses of the persons served. The proof may be by written acknowledgment of service, by certification ~~of a member of the bar of this state, by affidavit~~ of the person who served the papers, or by any other proof satisfactory to the court."

Rule 136(b).

That rule 136(b) be amended as follows:

"(b) Pretrial Conference. After issues are joined the court may in its discretion, and shall on written request of any attorney in the case, direct all attorneys in the action to appear before it for a conference to consider, so far as applicable to the particular case:

(1) The necessity or desirability of amending pleadings by formal amendment or pretrial order;

(2) Agreeing to admissions of facts, documents or records not really controverted, to avoid unnecessary proof;

(3) Limiting the number of expert witnesses;

(4) Settling any facts of which the court is to be asked to take judicial notice;

(5) Stating and simplifying the factual and legal issues to be litigated;

(6) Specifying all damage claims in detail as of the date of the conference;

(7) All proposed exhibits and mortality tables and proof thereof;

(8) Consolidation, separation for trial, and determination of points of law;

(9) Questions relating to voir dire examination of jurors and selection of alternate jurors, to serve if a juror becomes incapacitated;

(10) Possibility of settlement and imposition of a settlement deadline;

(11) Filing of advance briefs when required;

(12) Setting dates for closing of pleadings and discovery;

(13) Assigning a date for trial;

(14) Any other matter which may aid, expedite or simplify the trial of any issue.

The pretrial judge may direct the parties to the action to be present or immediately available at the time of conference."

Rule 138.1.

That the following new rule 138.1 be added:

"138.1. Sanction for Late Settlement. If an action is settled without prior approval of the court after a deadline established in an order entered pursuant to rule 138, the court may, after giving the parties and their counsel an opportunity to be heard, assess costs incurred by the failure to settle the action prior to the deadline, including the expense of assembling the jury panel and compensating jurors, or impose other appropriate sanction against one or more of the parties for violation of the settlement deadline."

Rule 187(a).

That rule 187(a) be amended as follows:

"(a) Selection. The clerk shall prepare and deposit in a box separate ballots containing the names of all persons returned or added as jurors. At each jury trial ~~he~~ the clerk shall select sixteen jurors by closing and shaking the box to intermingle the ballots, and drawing them from the box without seeing the names. ~~He~~ The clerk shall list all jurors so drawn. Computer selection processes may be used instead of separate ballots to select jury panels. Before drawing begins, either party may require that the names of all jurors be called, and have an attachment for those absent who are not engaged in other trials; but the court may wait for its return or not, in its discretion."

Rule 215.

That rule 215 be amended as follows:

"215. Voluntary Dismissal. A party may, without order of court, dismiss his own petition, counterclaim, cross-petition or petition for intervention, at any time before the trial has begun, subject to the provisions of rule 138.1. Thereafter a party may dismiss his action or his claim therein only by consent of the court which may impose such terms or conditions as it deems proper; and it shall require the consent of any other party asserting a counterclaim against the movant, unless that will still remain for an independent adjudication. A dismissal under this rule shall be without prejudice, unless otherwise stated; but if made by any party who has previously dismissed an action against the same defendant, in any court of any state or of the United States, including or based on the same cause, such dismissal shall operate as an adjudication against him on the merits, unless otherwise ordered by the court, in the interests of justice."

Rule 309.

That rule 309 be amended 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, or a district associate judge, ~~or a full-time magistrate appointed pursuant to §602.51 or §602.50, 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 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 371.

That the following new rule 371 be added:

"371. Form of Papers. Effective July 1, 1983, all notices, pleadings, motions, orders, and other papers filed in the district court shall be typewritten in black on plain, opaque, unglazed, white paper 8 1/2 by 11 inches in size. Lines of typewritten text shall be double spaced. Typewriting shall be standard pica size with ten characters per inch. Typed matter shall be 6 inches wide by 8 1/2 inches long. The margin on each side shall be not less than 1 1/8 inches. Consecutive sheets shall be attached at the upper left corner.

Before July 1, 1983, paper 8 1/2 by 11 inches, 8 1/2 by 13 inches, or 8 1/2 by 14 inches in size may be used. The margin on each side shall be not less than 1 1/8 inches."

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa
January 27, 1982

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of January, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Civil Procedure.

/s/ K. Marie Thayer
Secretary of the Senate, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of January, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Civil Procedure.

/s/ Elizabeth A. Isaacson
Chief Clerk of the House of Representatives, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

CERTIFICATE

I, Terry E. Branstad, do hereby certify that I am the President of the Senate of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the twenty-seventh day of January, 1982, the Supreme Court of the State of Iowa reported to Senate, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making that report to the 1982 Regular Session of the Sixty-ninth General Assembly was within twenty days subsequent to the convening of the 1982 Regular Session of the Sixty-ninth General Assembly;

THAT no other report pertaining to the Rules of Civil Procedure was made or filed by the Supreme Court with the Senate;

THAT there was enacted at the 1982 Regular Session of the Sixty-ninth General Assembly an Act known as Senate File 2270, wherein the proposed new Rule 371 was stricken;

THAT no other changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure as reported by the Supreme Court were made or enacted at the 1982 Regular Session of the Sixty-ninth General Assembly.

Signed this 24th day of April, 1982, being the sine die adjournment of the 1982 Regular Session of the Sixty-ninth General Assembly.

/s/ Terry E. Branstad

TERRY E. BRANSTAD
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER
Secretary of the Senate, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

CERTIFICATE

I, Delwyn Stromer, do hereby certify that I am the Speaker of the House of Representatives of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, Elizabeth A. Isaacson, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the twenty-seventh day of January, 1982, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Rules of Civil Procedure;

THAT the date of making that report to the 1982 Regular Session of the Sixty-ninth General Assembly was within twenty days subsequent to the convening of the 1982 Regular Session of the Sixty-ninth General Assembly;

THAT no other report pertaining to the Rules of Civil Procedure was made or filed by the Supreme Court with the House of Representatives;

THAT there was enacted at the 1982 Regular Session of the Sixty-ninth General Assembly an Act known as Senate File 2270, wherein the proposed new Rule 371 was stricken;

THAT no other changes, modifications, amendments, revisions or additions to the Rules of Civil Procedure as reported by the Supreme Court were made or enacted at the 1982 Regular Session of the Sixty-ninth General Assembly.

Signed this 24th day of April, 1982, being the sine die adjournment of the 1982 Regular Session of the Sixty-ninth General Assembly.

/s/ Delwyn Stromer

DELWYN STROMER
Speaker of the House

/s/ Elizabeth A. Isaacson

ELIZABETH A. ISAACSON
Chief Clerk of the House of Representatives, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

RULES OF CRIMINAL PROCEDURE

CHAPTER 1269

RULES OF CRIMINAL PROCEDURE

IN THE MATTER OF THE RULES OF CRIMINAL PROCEDURE } REPORT OF THE SUPREME COURT

TO THE 1982 REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 813.4 and 684.19, The Code, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in existing Rules of Criminal Procedure as shown on exhibit A attached hereto and made a part hereof.

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa
January 27, 1982

EXHIBIT A

CHANGES IN RULES OF CRIMINAL PROCEDURE

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~~,~~ or a 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 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~~ the information set aside and ~~said~~ the case submitted to the grand jury."

Rule 6(4)(b).

That rule 6(4)(b) be amended as follows:

"b. Prosecution and Judgment. When an indictment or information jointly charges ~~a defendant with a felony, and the same indictment charges~~ two or more defendants, those defendants ~~jointly charged~~ may be tried jointly~~,~~ if in the discretion of the court a joint trial will not result in prejudice to one or more of the parties~~,~~. Otherwise, ~~otherwise the~~ defendants shall be tried separately. ~~Where~~ When jointly tried, ~~each defendant~~ defendants shall be adjudged separately on each count."

Rule 8(1).

That rule 8(1) be amended by adding the following new unnumbered third paragraph:

"Unless otherwise ordered by the court, a defendant represented by an attorney may waive the formal arraignment contemplated by this rule and enter a plea of not guilty by executing and filing a written arraignment form that substantially complies with form 10.1 included in the appendix to these rules. The arraignment form must assure the court that the defendant has been advised of, and is aware of, all the rights and matters specified in this rule and that the full purposes of an arraignment have been satisfied."

Rule 8.1

That the following new rule 8.1 be added:

"Rule 8.1. Trial Assignments.

1. Prompt Assignment. Within seven days after the entry of an oral plea of not guilty or the filing of a written plea of not guilty, the court or its designee shall set the date and time for trial in writing with copies to counsel and to the clerk for the court file.

2. Firmness of Trial Date. The date assigned for trial shall be considered firm. Motions for continuance are discouraged. A motion for continuance shall not be granted except upon a showing of good and compelling cause."

Rule 10(4).

That rule 10(4) be amended as follows:

"4. Time of Filing. Motions hereunder, except ~~a~~ motions ~~for a bill of particulars~~ in

limine, shall be filed ~~within~~ when the grounds therefor reasonably appear but no later than forty days after arraignment~~, unless the period for filing is extended by the court for good cause shown~~. Motions in limine shall be filed when grounds therefor reasonably appear but no later than nine days before the trial date."

Rule 12.

That rule 12 be amended as follows:

"Rule 12. Depositions.

1. By Defendant. A defendant in a criminal case~~,~~ may ~~examine~~ depose all witnesses listed by the state on the indictment or information or notice of additional witnesses~~, conditionally or on notice and commission,~~ in the same manner and with like effect and with the same limitations as in civil actions except as otherwise provided by statute and these rules. Depositions before indictment or trial information is filed may only be ~~had~~ taken with leave of court.

When the state receives notice that a deposition will be taken of a witness listed on the indictment, information or notice of additional witnesses, the state may object that the witness ~~is~~ (a) is a foundation witness or (b) has been adequately examined on preliminary hearing. The court shall immediately determine whether discovery of ~~said~~ the witness ~~or witnesses~~ is necessary in the interest of justice and shall allow or disallow ~~said~~ the deposition.

2. Special Circumstances. Whenever ~~due to~~ the interests of justice and the special circumstances of ~~the~~ a case ~~it is in the interest of justice that~~ make necessary the taking of the testimony of a prospective witness not included in subsection 1 or 3 of this rule, ~~be taken and preserved~~ for use at trial, the court may upon motion of a party and notice to the other parties order that the testimony of ~~such~~ the witness be taken by deposition and that any designated book, paper, document, record, recording, or other material, not privileged, be produced at the same time and place. For purposes of this subsection, special circumstances shall be deemed to exist~~,~~ and the court shall order that depositions be taken~~,~~ only upon ~~the~~ a showing of necessity arising from either of the following ~~circumstances~~:

a. The information sought by way of deposition cannot adequately be ~~disclosed~~ obtained by a bill of particulars~~,~~ or ~~by~~ voluntary statements.

b. Other just cause necessitating ~~discovery by~~ the taking of the deposition.

3. By State. At or before the time of the taking of a deposition by a defendant under subsection 1 or 2 of this rule, the defendant shall file a written list of the names and addresses of all witnesses expected to be called for the defense. ~~There shall be~~ (except the defendant and surrebuttal witnesses), and the defendant shall have a continuing duty before and throughout trial ~~to~~ promptly to disclose additional defense witnesses~~, and such~~. Such witnesses shall be subject to being deposed by the state.

4. Failure to Comply. If the defendant has taken depositions under subsection 1 of this rule and does not disclose to the prosecuting attorney all of the defense witnesses (except the defendant and surrebuttal witnesses) at least nine days before trial, the court may order the defendant to permit the discovery of such witnesses, grant a continuance, or enter such other order as it deems just under the circumstances. It may, if it finds that no less severe remedy is adequate to protect the state from undue prejudice, order the exclusion of the testimony of any such witnesses.

5. Perpetuating Testimony. A person ~~apprehensive of~~ expecting to be a party to a criminal prosecution may perpetuate testimony in his or her favor in the same manner and with like effect~~,~~ as may be done in ~~apprehension~~ expectation of ~~any~~ a civil action.

~~5~~ 6. Time of Taking. Depositions ~~taken hereunder~~ shall be taken within thirty days after arraignment~~,~~ unless the period for taking is extended by the court for good cause shown."

Rule 17(1).

That rule 17(1) be amended as follows:

"1. Selection. The clerk shall prepare and deposit in a box separate ballots containing the names of all persons returned or added as jurors. At each jury trial ~~he~~ the clerk shall select sixteen jurors by closing and shaking the box to intermingle the ballots, and drawing them from the box without seeing the names. ~~He~~ The clerk shall list all jurors so drawn. Computer selection processes may be used instead of separate ballots to select jury panels. Before drawing begins, either party may require that the names of all jurors be called, and have an attachment for those absent who are not engaged in other trials; but the court may wait for its return or not, in its discretion."

Rule 18.

That rule 18 be amended as follows:

That subsections "1" and "2" be stricken; that subsection "5" be stricken and the following new subsection "5" be substituted in lieu thereof:

"5. Failure to Give Notice. If the prosecuting attorney does not give notice to the defendant of all prosecution witnesses (except rebuttal witnesses) at least ten days before trial, the court may order the state to permit the discovery of such witnesses, grant a continuance, or enter such other order as it deems just under the circumstances. It may, if it finds that no less severe remedy is adequate to protect the defendant from undue prejudice, order the exclusion of the testimony of any such witnesses."

That subsections "3", "4", "5", "6", "7", "8", "9" and "10" be renumbered as subsections "1", "2", "3", "4", "5", "6", "7" and "8", respectively.

Rule 21(1).

That rule 21(1) be amended as follows:

"1. Form of Verdicts. ~~In open court the~~ The jury must render a verdict of 'guilty', which imports a conviction, or 'not guilty' ~~or~~, 'not guilty by reason of insanity', or 'not guilty by reason of diminished responsibility', which imports acquittal, on the ~~material allegations in the~~ charge. The jury shall return a verdict determining the degree of guilt in cases submitted to determine the grade of the offense."

Rule 21(5).

That rule 21(5) be amended as follows:

"5. Return of Jury; Reading and Entry of Verdict; Unanimous Verdict; Sealed Verdict. The jury, agreeing on a verdict unanimously, shall bring the verdict into court, where it shall be read to them, and inquiry made if it is their verdict. A party may then require a poll asking each juror if it is his or her verdict. If any juror expresses disagreement on such poll or inquiry, the jury shall be sent out for further deliberation; otherwise, the verdict is complete and the jury shall be discharged. When the verdict is given and is such as the court may receive, the clerk ~~may~~ shall enter it in full upon the record. In any misdemeanor case in which the defendant is not in custody at the time of trial and the parties agree, the court may permit the return of a sealed verdict. The sealing of the verdict is equivalent to rendition in open court, and the jury shall not be polled or permitted to disagree with the verdict. A sealed verdict and the answer to each interrogatory shall be signed by all jurors, sealed, and delivered by the bailiff to the clerk of court, who shall enter it upon the record and disclose it to the court as soon as practicable."

Rule 27(2)(c).

That rule 27(2)(c) be amended as follows:

"c. All criminal cases must be brought to trial within one year after the defendant's initial arraignment pursuant to R.Cr.P. 8 unless an extension is granted by the court, upon a showing of good cause."

Rule 30. Appendix of Forms.

That the appendix of forms be amended by adding the following new form 10.1:

"FORM 10.1

IN THE IOWA DISTRICT COURT FOR ..... COUNTY

THE STATE OF IOWA,

Plaintiff,

vs.

....., Defendant.

WRITTEN ARRAIGNMENT AND PLEA OF NOT GUILTY

No. .....

****

Comes now the above named defendant in the above captioned criminal case and under oath states:

1. I am represented by Attorney ....., whose address and telephone number are ....., ..., Iowa ....., ...

2. My current mailing and residence addresses and telephone number are: .....

.....

.....

3. I am ..... years old, having been born on ..... I can read and understand the English language and have completed the following level of education: .....

4. I have been advised by the above named attorney and understand that I have a right to arraignment in open court, and I hereby voluntarily waive that right, choosing instead to sign this written arraignment and plea of not guilty. I understand that times for further proceedings which are computed from the date of arraignment will be computed from the date of filing this written arraignment and plea of not guilty.

5. I have received a copy of the indictment/trial information which charges me with the crime(s) of ..... in violation of section(s) ..... of the Iowa Criminal Code, I have read it, and I have familiarized myself with its contents.

6. With regard to the name by which I am charged in the indictment/trial information [either check "a" or check and complete "b"]:

[ ]a. The name shown on the indictment/trial information is my true name. I have been

advised and understand that I am now precluded from objecting to the indictment/trial information upon the ground I am improperly named.

[ ]b. The name shown on the indictment/trial information is not my true name. My true name is ..... I request that an entry be made in the minutes showing my true name. I have been advised and understand further proceedings will be had against me by that name, the indictment/trial information will be amended accordingly, and when the indictment/trial information is so amended I will be precluded from objecting upon the ground I am improperly named.

7. I have been advised and understand that I may plead guilty, not guilty, or former conviction or acquittal.

8. For the purpose of this arraignment, I have had sufficient time to discuss my case with the above named attorney, and I waive any further time in which to enter a plea.

9. I plead NOT GUILTY to the charge(s) of .....

10. I have been advised and understand that I have a right under rule 27(2)(b) of the Iowa Rules of Criminal Procedure to a trial within ninety days after indictment/filing of the trial information and [check either "a" or "b"]:

[ ]a. I demand a speedy trial pursuant to rule 27(2)(b).

[ ]b. I waive my right to a speedy trial pursuant to rule 27(2)(b).

11. I request that a trial date be promptly set pursuant to rule 8.1 of the Iowa Rules of Criminal Procedure. My attorney and I will be available for trial on the following days:

.....

.....

.....

Defendant

State of Iowa,..... County, ss.

Subscribed, sworn to, and acknowledged before me by .....this .....day of....., 19....

.....

[SEAL]

Notary public or other officer authorized to take and certify acknowledgements and administer oaths."

Rule 52.

That rule 52 be stricken and the following new rule 52 be substituted in lieu thereof:

"Rule 52. Joint Trials. Two or more complaints against one defendant may be tried jointly. Two or more defendants who are alleged to have participated in the same transaction or occurrence or series of transactions or occurrences from which the offense or offenses charged arose may be tried jointly whether the defendants are charged in one or more complaints. Jointly tried complaints or defendants shall be adjudged separately. Complaints or defendants shall not be jointly tried as to a party if the court finds, in its discretion, that prejudice would result to the party."

Rule 54.

That rule 54 be amended as follows:

"Rule 54. Appeals.

1. Notice of Appeal. An appeal may be taken by the plaintiff only upon a finding of

invalidity of an ordinance or statute. In all other cases, an appeal may only be taken by the defendant and only upon a judgment of conviction. Execution of the judgment shall be stayed upon ~~the~~ filing with the clerk of the district court an appeal bond with surety approved by the clerk, in the sum specified in the judgment. ~~The defendant may~~ A party takes an appeal~~,~~ by giving notice orally to the magistrate at the time judgment is rendered that ~~he or she~~ the party appeals~~,~~ or by delivering to the magistrate not later than ten days thereafter~~,~~ a written notice of ~~the defendant's~~ appeal, and in either case the magistrate must make an entry on ~~its~~ the docket of the giving of such notice. Payment of fine or service of a sentence of imprisonment does not waive the right to appeal, nor render the appeal moot.

2. Record. When an appeal is taken, the magistrate shall forward to the appropriate district court clerk a copy of the magistrate's docket entries ~~in the magistrate's court~~, together with copies of the complaint, warrant, motions, pleadings, the magistrate's minutes of the witnesses' testimony ~~and~~, the exhibits or ~~copies~~ the originals thereof, and ~~all~~ the other papers in the case. Within ten days after an appeal is taken, unless extended by order of a district judge or district associate judge, any party may file with the clerk, as a part of the record, a transcript of the official report, if any, and, in the event the report was made electronically, the tape or other medium on which the proceedings were preserved.

3. Procedure if Appeal From Lawyer Magistrate. ~~A district judge shall promptly hear the appeal upon the record thus filed without further evidence if~~ If the original action was tried by a district judge ~~or~~, district associate judge, or judicial magistrate who is admitted to practice law in Iowa, ~~unless the district judge hearing the appeal either upon application of any party or on the district judge's own motion orders the appeal tried anew on the grounds the record is inadequate~~ the appellant shall file and serve, within fourteen days after taking the appeal, a brief in support of the appeal. The brief shall include statements of the specific issues presented for review and the precise relief requested. The appellee may file and serve, within ten days after service of the appellant's brief, a responding brief. Either party may request, at the end of the party's brief, permission to be heard in oral argument. Within thirty days after the filing, or expiration of time for filing, of the appellee's brief, the appeal shall be submitted to the court on the record and any briefs without oral argument, unless otherwise ordered by the court or its designee. If the court, on its own motion or motion of a party, finds the record to be inadequate, it may order the presentation of further evidence. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge or a different district associate judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or district associate judge. Findings of fact in the original action shall be binding on the judge deciding the appeal if they are supported by substantial evidence. The judge deciding the appeal may affirm, or reverse and enter judgment as if the case were being originally tried, or enter any judgment which is just under the circumstances.

4. Procedure if Appeal From Nonlawyer Magistrate. If the original action was tried by a judicial magistrate who is not admitted to practice law in Iowa, ~~the~~ a district judge or district associate judge shall promptly try the case anew without a jury unless the appellant demands an appeal only on the record already made and briefs thereon. Within fourteen days after the taking of the appeal, the court or its designee shall set the date and time for trial. ~~Within ten days after an appeal is taken, unless extended by order of a district judge or by stipulation of the parties, any party may file with the clerk, as a part of the record, a transcript of the official report, if any, and, in the event the report was made electronically, the tape or other medium on which the proceedings were preserved. If the original action was tried before a district judge acting as a judicial magistrate, the appeal shall be to a different district judge.~~

~~The judge shall decide the appeal without regard to technicalities or defects.~~ Judgment shall be rendered as though the case were being originally tried. ~~The right to further appeal is governed by section 814.6, The Code.~~ If, within seven days after taking an appeal, the appellant files with the clerk of the district court and serves on the appellee a demand for an appeal on the record and briefs only, the appeal shall proceed and judgment shall be entered in the manner prescribed in subsection 3 of this rule.

~~2~~ 5. Bail.

a. Admission to Bail. Admission to bail shall be as provided ~~for~~ in chapter 811, The Code. Execution of the judgment shall not be stayed unless the defendant is admitted to bail.

b. Officers Authorized to Take Bail. Bail may be taken by the magistrate who rendered the judgment~~,~~ or by any magistrate ~~in the county of the district court~~ of that county. The magistrate taking bail shall remit it to the clerk of the district court who shall give receipt therefor.

~~3~~ 6. Counsel. In appropriate cases, the magistrate shall appoint counsel on appeal.

7. Review by Supreme Court. After the decision on appeal the defendant may apply for discretionary review pursuant to sections 814.4 and 814.6(2)(d), The Code, and the plaintiff may apply for discretionary review pursuant to sections 814.4 and 814.5(2)(d), The Code. Procedure on discretionary review shall be as prescribed in rules 201-203 of the rules of appellate procedure."

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of January, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Criminal Procedure.

/s/ K. Marie Thayer

Secretary of the Senate, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of January, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Criminal Procedure.

/s/ Elizabeth A. Isaacson

Chief Clerk of the House of Representatives, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

IN THE MATTER OF THE RULES OF CRIMINAL PROCEDURE } CORRECTION OF REPORT OF THE SUPREME COURT

TO THE 1982 REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 813.4 and 684.19, The Code, the Supreme Court of Iowa on January 27, 1982, reported to the General Assembly changes in the Rules of Criminal Procedure. It has come to the attention of the court that there is a technical mistake on page 6 of exhibit A of the report which relates to the renumbering of the subsections of rule 18.

Lines 15 through 17 on page 6 of exhibit A of the January 27, 1982, report regarding the Rules of Criminal Procedure should be, and hereby are, corrected to read as follows:

That subsections "3", "4", "5", "6", "7", "8", "9", "10" and "11" be renumbered as subsections "1", "2", "3", "4", "5", "6", "7", "8", and "9", respectively.

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa
March 1, 1982

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the first day of March, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Criminal Procedure.

/s/ K. Marie Thayer
Secretary of the Senate, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the first day of March, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules of Criminal Procedure.

/s/ Elizabeth A. Isaacson
Chief Clerk of the House of Representatives, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

CERTIFICATE

I, Terry E. Branstad, do hereby certify that I am the President of the Senate of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the twenty-seventh day of January, 1982, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Rules of Criminal Procedure;

THAT the date of making that report to the 1982 Regular Session of the Sixty-ninth General Assembly was within twenty days subsequent to the convening of the 1982 Regular Session of the Sixty-ninth General Assembly;

THAT on the first day of March, 1982, the Supreme Court of the State of Iowa submitted to the Senate and filed with it, the attached and foregoing correction of the report of the Supreme Court regarding the attached and foregoing Rules of Criminal Procedure;

THAT no other report pertaining to the Rules of Criminal Procedure was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Criminal Procedure as reported by the Supreme Court were made or enacted at the 1982 Regular Session of the Sixty-ninth General Assembly.

Signed this 24th day of April, 1982, being the sine die adjournment of the 1982 Regular Session of the Sixty-ninth General Assembly.

/s/ Terry E. Branstad

TERRY E. BRANSTAD
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER
Secretary of the Senate, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

CERTIFICATE

I, Delwyn Stromer, do hereby certify that I am the Speaker of the House of Representatives of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, Elizabeth A. Isaacson, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the twenty-seventh day of January, 1982, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Rules of Criminal Procedure;

THAT the date of making that report to the 1982 Regular Session of the Sixty-ninth General Assembly was within twenty days subsequent to the convening of the 1982 Regular Session of the Sixty-ninth General Assembly;

THAT on the first day of March, 1982, the Supreme Court of the State of Iowa submitted to the Senate and filed with it, the attached and foregoing correction of the report of the Supreme Court regarding the attached and foregoing Rules of Criminal Procedure;

THAT no other report pertaining to the Rules of Criminal Procedure was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Rules of Criminal Procedure as reported by the Supreme Court were made or enacted at the 1982 Regular Session of the Sixty-ninth General Assembly.

Signed this 24th day of April, 1982, being the sine die adjournment of the 1982 Regular Session of the Sixty-ninth General Assembly.

/s/ Delwyn Stromer

DELWYN STROMER
Speaker of the House

/s/ Elizabeth A. Isaacson

ELIZABETH A. ISAACSON
Chief Clerk of the House of Representatives, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

RULES FOR HOSPITALIZATION OF MENTALLY ILL

CHAPTER 1270

RULES AND FORMS FOR INVOLUNTARY HOSPITALIZATION OF MENTALLY ILL

IN THE MATTER OF RULES OF PROCEDURE AND FORMS FOR INVOLUNTARY HOSPITALIZATION OF MENTALLY ILL

REPORT OF THE SUPREME COURT

TO THE 1982 REGULAR SESSION OF THE SIXTY-NINTH GENERAL ASSEMBLY OF THE STATE OF IOWA:

Pursuant to sections 229.40 and 684.19, The Code, the Supreme Court of Iowa has prescribed and hereby reports to the General Assembly changes in existing Rules of Procedure and Forms for the Involuntary Hospitalization of the Mentally Ill as follows:

Rule 3(B).

That rule 3(B) be amended as follows:

"B. The notice of procedures required under section 229.7, The Code, shall inform the respondent of: ~~(1)~~ (a) His or her immediate right to counsel, at county expense if necessary; (b) the right to request an examination by a physician of his or her choosing, at county expense if necessary; (c) the right to be present at the hearing; (d) the right to a hearing within five days if the respondent is taken into immediate custody pursuant to section 229.11, The Code; (e) the right not to be forced to hearing sooner than forty-eight hours after notice, unless respondent waives such minimum prior notice requirement."

Rule 32.

That the following new rule 32 be added:

"32. If, pursuant to section 229.14(3), The Code, the chief medical officer determines that the patient is suited for outpatient care, the chief medical officer (or his designee) and the patient shall discuss and agree upon specific care and treatment guidelines in which the best interests of the patient will be paramount. These written guidelines shall be known as the Outpatient Treatment Plan (O.T.P.). If either the patient or the chief medical officer (or his designee) alleges that the O.T.P. has been breached, the judge or judicial hospitalization referee shall hold a hearing as provided by sections 229.14(3) and 229.12, The Code, to determine whether the patient should be rehospitalized. The patient is entitled to reasonable notice of such a hearing."

Form 29.
That the following new form 29 be added:

"[29]

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

IN THE MATTER OF:

_____

ALLEGED TO BE SERIOUSLY MENTALLY IMPAIRED,

Respondent.

No. _____
NOTICE TO RESPONDENT PURSUANT TO SECTION 229.14(3), THE CODE.

TO: _____

You are hereby notified that there is now on file in the office of the Clerk of the District Court of_____ County, Iowa, an application alleging that you have not satisfactorily responded to your "Outpatient Treatment Plan (O.T.P.)" and should therefore be re-hospitalized for inpatient care and treatment. A copy of said application is attached. This matter will come on for hearing on the application before this Court at _____, _____ County, Iowa, on the_____day of_____, 19_____, at_____o'clock____.M..

You are further notified that you have the right to have your personal or previously appointed attorney present in connection with this hearing.

You have a right to be present at the hearing.

At this hearing the Court will decide whether you should be re-hospitalized for inpatient care and treatment; whether the O.T.P. should be revised and outpatient care continued; or whether some other result is appropriate.

_____
JUDGE OF THE_____JUDICIAL DISTRICT OF IOWA OR JUDICIAL HOSPITALIZATION REFEREE"

Form 30.
That the following new form 30 be added:

"[30]

IN THE IOWA DISTRICT COURT IN AND FOR _____COUNTY

IN THE MATTER OF:

_____

ALLEGED TO BE SERIOUSLY MENTALLY IMPAIRED,

Respondent.

No. _____
HOSPITALIZATION ORDER PURSUANT TO SECTION 229.14(3), THE CODE.

On_____a hearing was held regarding allegations that Respondent has failed to satisfactorily respond to his Outpatient Treatment Plan (O.T.P.) and should therefore be re-hospitalized for inpatient care and treatment as provided by sections 229.14(3) and 229.15(2), The Code. It is hereby determined that sufficient evidence has been presented to support said allegations, and the Respondent is hereby ordered re-committed to _____.

This finding is based on the following circumstances and grounds:

_____

_____

_____

Done this_____ day of_____, 19____.

_____

JUDGE OF THE_____JUDICIAL DISTRICT OF IOWA OR JUDICIAL HOSPITALIZATION REFEREE"

Respectfully submitted,
THE SUPREME COURT OF IOWA

/s/ W. W. Reynoldson
W. W. REYNOLDSON, CHIEF JUSTICE

Des Moines, Iowa
January 27, 1982

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of January, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules for Involuntary Hospitalization of Mentally Ill.

/s/ K. Marie Thayer

Secretary of the Senate, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

ACKNOWLEDGMENT

I, the undersigned, Chief Clerk of the House of Representatives of the State of Iowa, hereby acknowledge delivery to me on the twenty-seventh day of January, 1982, of the foregoing report of the Supreme Court of Iowa pertaining to the Rules for Involuntary Hospitalization of Mentally Ill.

/s/ Elizabeth A. Isaacson

Chief Clerk of the House of Representatives, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

CERTIFICATE

I, Terry E. Branstad, do hereby certify that I am the President of the Senate of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, K. Marie Thayer, do hereby certify that I am the Secretary of the Senate of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify as President and Secretary that on the twenty-seventh day of January, 1982, the Supreme Court of the State of Iowa reported to the Senate, and filed with it, the attached and foregoing Forms for the Involuntary Hospitalization of the Mentally Ill;

THAT the date of making that report to the 1982 Regular Session of the Sixty-ninth General Assembly was within twenty days subsequent to the convening of the 1982 Regular Session of the Sixty-ninth General Assembly;

THAT no other report pertaining to the Forms for the Involuntary Hospitalization of the Mentally Ill was made or filed by the Supreme Court with the Senate;

THAT no changes, modifications, amendments, revisions or additions to the Forms for the Involuntary Hospitalization of the Mentally Ill as reported by the Supreme Court were made or enacted at the 1982 Regular Session of the Sixty-ninth General Assembly.

Signed this 24th day of April, 1982, being the sine die adjournment of the 1982 Regular Session of the Sixty-ninth General Assembly.

/s/ Terry E. Branstad

TERRY E. BRANSTAD
President of the Senate

/s/ K. Marie Thayer

K. MARIE THAYER
Secretary of the Senate, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

CERTIFICATE

I, Delwyn Stromer, do hereby certify that I am the Speaker of the House of Representatives of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa; and I, Elizabeth A. Isaacson, do hereby certify that I am the Chief Clerk of the House of Representatives of the 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa, and we do hereby jointly certify as Speaker and Chief Clerk that on the twenty-seventh day of January, 1982, the Supreme Court of the State of Iowa reported to the House of Representatives, and filed with it, the attached and foregoing Forms for the Involuntary Hospitalization of the Mentally Ill;

THAT the date of making that report to the 1982 Regular Session of the Sixty-ninth General Assembly was within twenty days subsequent to the convening of the 1982 Regular Session of the Sixty-ninth General Assembly;

THAT no other report pertaining to the Forms for the Involuntary Hospitalization of the Mentally Ill was made or filed by the Supreme Court with the House of Representatives;

THAT no changes, modifications, amendments, revisions or additions to the Forms for the Involuntary Hospitalization of the Mentally Ill as reported by the Supreme Court were made or enacted at the 1982 Regular Session of the Sixty-ninth General Assembly.

Signed this 24th day of April, 1982, being the sine die adjournment of the 1982 Regular Session of the Sixty-ninth General Assembly.

/s/ Delwyn Stromer

DELWYN STROMER
Speaker of the House

/s/ Elizabeth A. Isaacson

ELIZABETH A. ISAACSON
Chief Clerk of the House of Representatives, 1982 Regular Session of the Sixty-ninth General Assembly of the State of Iowa

SENATE CONCURRENT RESOLUTIONS

[Priorities determined by Legislative Council, SCR 137]

SCR 101 Defense budget, Reagan administration urged to make appropriate cuts. Introduced, S.J. 140, 184, 247.

SCR 102 State highways and bridges, emphasis on greater federal funding on repair and reconstruction. Adopted, S.J. 480, 481, 491, 646, 647, 655; Introduced, H.J. 760, 795, 796, 835. [See HCR 108]

SCR 103 Mass transit services, state DOT to conduct study. Introduced, S.J. 542, 543, 559, 715. [See SCR 104, HCR 122]

SCR 104 Public transit services, state DOT to prepare report and submit findings. Adopted, S.J. 579, 580, 621. [See SCR 103, HCR 122]

SCR 105 Proposed adjournment of General Assembly, Friday, March 19, 1982, with special session commencing June 14, 1982. Introduced, S.J. 656, 657, 694, 842, 843. [See HCR 127]

SCR 106 Uniform public body bid laws on building and construction work paid with any public funds, interim study committee established. Introduced, S.J. 700, 701, 724, 778.

SCR 107 City of Holstein, congratulations upon its one-hundredth anniversary. Introduced, S.J. 701, 745, 843.

SCR 108 City of Galva, congratulations upon its one-hundredth anniversary. Introduced, S.J. 712, 713, 745, 843.

SCR 109 Student aid programs, General Assembly petitions President Reagan and Congress to consider maintaining reasonable funding and eligibility requirements. Introduced, S.J. 791, 792, 797; Withdrawn, S.J. 1228. [HCR 131 substituted for SCR 109, S.J. 1227]

SCR 110 Employment compensation trust fund, joint committee appointed to study solutions to prevent insolvency. Introduced, S.J. 820, 823, 932. [See SR 103, HCR 136]

SCR 111 Des Moines' new zoo, designation as the official state zoo. Introduced, S.J. 852, 879, 932. [See HCR 133]

SCR 112 State correctional institutions, special interim committee to study the establishment of a separate department of corrections. Introduced, S.J. 873, 932.

SCR 113 Nuclear arms race, General Assembly petitions President Reagan and Congress to consider limitation. Adopted, S.J. 904, 905, 935, 1015, 1022, 1023; Withdrawn, S.J. 1280. [HCR 135 substituted for SCR 113, S.J. 1279] [See SR 104, HCR 135]

SCR 114 "National Year of Disabled Persons," establishment by President Reagan in a signed joint Congressional resolution. Introduced, S.J. 931, 945, 1015. [See HCR 138]

SCR 115 "Reading Month in Iowa," April, 1982, proclamation by Governor Robert D. Ray. Introduced, S.J. 961, 962, 985, 1210, 1256, 1465, 1466. [HCR 143 substituted for SCR 115, S.J. 1466]

SCR 116 Spent nuclear fuel shipments across state, interim committee appointed to study. Introduced, S.J. 997, 1046, 1178, 1486. [See HCR 121]

SCR 117 American farmers, current conditions affecting, and recommendations for remedial government assistance. Introduced, S.J. 1012, 1013, 1046. [See HR 106]

SCR 118 Regulated financial institutions, joint committee appointed to study feasibility of reorganizing state regulatory agencies. Introduced, S.J. 1013, 1014, 1020.

SCR 119 Public libraries, conflicts, interim committee established to examine existing problems. Introduced, S.J. 1049, 1050, 1098, 1121.

SCR 120 State primary and secondary road systems, interim committee appointed to study the alternative plans developed by the 1981 study and report findings and recommendations. Introduced, S.J. 1096, 1097, 1256.

SCR 121 County compensation boards, review of operations, interim committee to study. Introduced, S.J. 1147, 1148, 1256. [See HCR 120]

SCR 122 Knights of Columbus, commendations and congratulations on organization's record of service during its first one hundred years of existence. Introduced, S.J. 1179, 1208, 1486.

SCR 123 Federal balanced budget. Introduced, S.J. 1190, 1191, 1246. [See HCR 150]

SCR 124 State soil conservation laws and rules, interim committee established to study and report recommendations. Introduced, S.J. 1226, 1486. [See HCR 145]

SCR 125 Farm grain prices, Commodity Credit Corp. grain storage program, reinstitution. Adopted, S.J. 1260, 1261, 1320, 1346, 1429, 1486, 1491; Adopted, H.J. 1783, 1784, 1796.

SCR 126 School districts, policies on controversial educational issues, joint committee established to study. Introduced, S.J. 1297, 1298. [See HCR 146]

SCR 127 Industrial revenue bonding, need for uniform policy development, interim study committee appointed. Introduced, S.J. 1312, 1346.

SCR 128 State board of regents, proposed ten-year building program, revision, SUI law building. Adopted, S.J. 1317, 1320, 1328-1331, 1348, 1377, 1378, 1396-1399, 1405-1410; Introduced, H.J. 1762-1766, 1893, 1894, 1904.

SCR 129 Budgets, hearings, audit of accounts and expenditures, competitive bidding and procurement practices, (Code Chapter 28E), joint committee to study. Introduced, S.J. 1327, 1373.

SCR 130 National animal welfare movement, strong support of state livestock industry by General Assembly. Introduced, S.J. 1352, 1353, 1375, 1420, 1429, 1486.

SCR 131 Pipeline construction and installation, interim committee appointed to study. Introduced, S.J. 1353, 1354, 1415.

SCR 132 Agricultural land value, productivity formula, revenue department to conduct study. Introduced, S.J. 1380, 1381, 1416.

SCR 133 Property taxes, tax receipt apportionment, necessity for uniform schedule, interim committee appointed to study current law. Introduced, S.J. 1390, 1416, 1422.

SCR 134 Cable television, unauthorized connections and devices, joint committee created to study. Introduced, S.J. 1412, 1413, 1448.

SCR 135 Utility services, rate increases, committee to study. Introduced, S.J. 1413, 1414, 1448.

SCR 136 State tax structure, review, alternative revenue sources, study committee created. Adopted, S.J. 1414, 1416, 1427; Adopted, H.J. 1783-1785, 1796.

SCR 137 Legislative council to determine priorities of interim study committees not approved. Adopted, S.J. 1425, 1426, 1448; Adopted, H.J. 1800, 1810, 1811.

SCR 138 Adjournment, April 24, 1982, Regular Session, Sixty-ninth General Assembly. Adopted, S.J. 1485, 1492; Adopted, H.J. 1897, 1901.

HOUSE CONCURRENT RESOLUTIONS

[Priorities determined by Legislative Council, SCR 30, SCR 137]

HCR 2 Presidential election returns, early prediction; Congress urged to enact legislation. 1981 Regular Session—Adopted, H.J. 68, 650; Introduced, S.J. 705, 729, 908. 1982 Regular Session—S.J. 86.

HCR 6 Litigation, Wilson et al v. Omaha Indian Tribe et al, support efforts of Monona County Land Association, 1981 Regular Session—Adopted, H.J. 145, 276; Introduced, S.J. 337, 338, 365, 458, 484, 485, 557, 558, 588, 1178. 1982 Regular Session— H.J. 1860-1862; Adopted, S.J. 990, 995, 1455, 1456, 1492.

HCR 15 State board of regents, audit and review. 1981 Regular Session—Adopted, H.J. 425, 426, 727, 828, 883, 884, 903, 2283; Introduced, S.J. 5, First Extraordinary Session. 1982 Regular Session—S.J. 44, 86.

HCR 35 Alcohol, warning label on bottles. 1981 Regular Session—Adopted, H.J. 1547, 1548, 2070; Introduced, S.J. 1819, 1820, 1875. (See SCR 8) 1982 Regular Session—S.J. 86.

HCR 38 Wayne A. Faupel, Code Editor, expression of appreciation and thanks for his fifty years of service to the state. 1981 Regular Session—Adopted, H.J. 1759, 1760, 1981, 1982; Introduced, S.J. 1714, 1715, 1749, 1814, 1883; 1982 Regular Session—H.J. 151; Adopted, S.J. 92, 127.

HCR 101 Joint convention, January 12, 1982, 10:00 a.m., Governor Ray's condition of the state and budget message. Adopted, H.J. 6, 7; Adopted, S.J. 7-9.

HCR 102 State historical society of Iowa, congratulations by General Assembly on its one hundred twenty-fifth anniversary. Adopted, H.J. 41, 100; Adopted, S.J. 114, 129, 197, 230, 231, 248.

HCR 103 Milk, designation as the official state beverage. Introduced, H.J. 58, 680. [See HCR 130]

HCR 104 School prayer, busing, and abortion; Congress urged to enact legislation to remove cases from jurisdiction of the Supreme Court. Introduced, H.J. 112, 113.

HCR 105 1981 Hawkeye football team, congratulations on an outstanding football season and participation in the 1982 Rose Bowl game. Adopted, H.J. 113, 162, 163; Adopted, S.J. 221, 222, 260, 275, 305.

HCR 106 Intra-agency terminology, use of understandable language in communications and reports. Introduced, H.J. 156, 157; Introduced, S.J. 256, 279, 349, 390, 590, 1394.

HCR 107 Missouri River compact, protection of state's interest. Adopted, H.J. 167, 182, 704, 706, 733, 734; Adopted, S.J. 256, 257, 279, 364, 367, 390, 590, 689.

HCR 108 State bridges and highways, repair and reconstruction, greater federal funding emphasis. Introduced, H.J. 231, 248. [See SCR 102]

HCR 109 Job Service of Iowa, closing of offices, restoration to reasonable funding level. Introduced, H.J. 245, 286.

HCR 110 Ethanol alcohol, potential development as a fuel source. Introduced, H.J. 284, 285.

HCR 111 Joint convention, 69th General Assembly, 1982 Session, Tuesday, February 9, 1982, at 9:15 a.m., to hear address by President Ronald Reagan. Adopted, H.J. 285, 287, 288, 299; Adopted, S.J. 315, 316, 318, 333.

HCR 112 Executive Order #12314, rescission of that portion which provides for Regional Councils. Introduced, H.J. 301.

HCR 113 Military expenditures, reduction in growth rate. Introduced, H.J. 301, 302.

HCR 114 Natural gas price decontrol, opposition by General Assembly. Adopted, H.J. 320, 321, 367, 891, 1895; Adopted, S.J. 848, 849, 879, 898, 933, 1294, 1466.

HCR 115 Joint convention, Monday, February 22, 1982, 11:00 a.m., message by Supreme Court Chief Justice W. Ward Reynoldson, on the condition of the judicial department. Adopted, H.J. 371, 442, 445, 463; Adopted, S.J. 425, 426, 430, 431, 438, 439.

HCR 116 Federal defense budget, General Assembly requests meaningful cuts. Adopted, H.J. 515, 516, 891, 892, 926; Introduced, S.J. 849-851, 879, 933.

HCR 117 Motor oil recycling, state DOT and DEQ departments jointly to conduct study. Introduced, H.J. 525.

HCR 118 Iowa families, evaluation of the impact of proposed legislation on family units. Adopted, H.J. 542, 543, 564, 895, 923, 924; Introduced, S.J. 868, 869, 893, 988, 1017, 1276, 1307, 1394.

HCR 119 "Women's History Week," March 7-13, 1982, recognition by General Assembly. Adopted, H.J. 572, 573, 679; Adopted, S.J. 624, 625, 649, 696, 703, 845.

HCR 120 County compensation boards, review of operations, interim committee to study. Introduced, H.J. 574, 576. [See SCR 121]

HCR 121 Spent nuclear fuel shipments across state; Congress urged to enact legislation requiring on-site storage. Introduced, H.J. 574, 575, 865. [See SCR 116]

HCR 122 Public transit services, need for adequate transportation services, state DOT to prepare report and submit findings. Introduced, H.J. 606, 607. [See SCR 103, SCR 104]

HCR 123 "Iowa Nutrition Week," March 21-27, 1982, declaration by General Assembly. Adopted, H.J. 638, 761, 924; Adopted, S.J. 690, 717, 773, 841, 842.

HCR 124 State freeze on new hiring, salary increases; existing program expansion and institution. Introduced, H.J. 699.

HCR 125 Iowa tort law, committees to study the matter of comparative and contributory negligence. Introduced, H.J. 734, 735, 738. [See SR 111]

HCR 126 Peace officers' retirement benefits, committee to study and report recommendations. Introduced, H.J. 749, 756.

HCR 127 Proposed adjournment of General Assembly, Friday, March 19, 1982, with special session commencing June 14, 1982. Introduced, H.J. 760, 761, 868; Withdrawn, H.J. 891. [See SCR 105]

HCR 128 Romania's "Most Favored Nation Trading Status"; President Reagan urged not to renew status. Introduced, H.J. 783, 784.

HCR 129 Divorce rate rise, health department division of records and statistics to collect information relating to child custody and child support. Adopted, H.J. 784, 787, 890; Introduced, S.J. 851, 879, 933.

HCR 130 Milk, designation as the official state beverage in conjunction with June as "National Dairy Month." Adopted, H.J. 794, 795, 818, 835, 973; Adopted, S.J. 922, 923, 945, 958, 959, 1017, 1104. [See HCR 103]

HCR 131 Student aid programs, General Assembly petitions President Reagan and Congress to consider maintaining reasonable funding and eligibility requirements until role of state is evaluated. Adopted, H.J. 813, 814, 1105; Adopted, S.J. 978, 979, 1228. [HCR 131 substituted for SCR 109, S.J. 1227]

HCR 132 Recognition of the year 1982 as the bicentennial "Year of the Eagle,"; June 20, 1982 as "Bald Eagle Day,"; and the week of March 14 to March 20, 1982 as "National Wildlife Week." Introduced, H.J. 830, 831.

HCR 133 Des Moines' new zoo, designation as the official state zoo. Introduced, H.J. 948. [See SCR 111]

HCR 134 Revenue bonds, issuance by cities and counties for public purposes, limitation. Introduced, H.J. 948, 949.

HCR 135 Nuclear arms race, General Assembly petitions President Reagan and Congress to consider limitation. Adopted, H.J. 960, 961, 1105, 1594; Adopted, S.J. 979, 980, 1279, 1280. [HCR 135 substituted for SCR 113, S.J. 1279] [See SCR 113, SR 104]

HCR 136 Unemployment compensation trust fund, joint committee appointed to study solutions to prevent insolvency. Introduced, H.J. 965, 966. [See SCR 110, SR 103]

HCR 137 Code Chapter 297, purchase and sale of property by school districts, interim study committee appointed to update and clarify present law. Introduced, H.J. 986, 987.

HCR 138 "National Year of Disabled Persons," establishment by President Reagan in a signed joint Congressional resolution. Introduced, H.J. 1079. [See SCR 114]

HCR 139 "Family Week in Iowa," November 21-27, 1982, declaration by General Assembly. Introduced, H.J. 1141.

HCR 140 Student loans and grants, impact of decreases, joint committee to study. Introduced, H.J. 1141, 1142.

HCR 141 Pay discrimination, study committee established. Introduced, H.J. 1281, 1282.

HCR 142 Nursing practice, role in relation to other practitioners in health care field, study committee created. Introduced, H.J. 1411, 1412, 1550.

HCR 143 "Reading Month in Iowa," April, 1982, proclamation by Governor Robert D. Ray. Adopted, H.J. 1453, 1486, 1895; Adopted, S.J. 1297, 1466. [HCR 143 substituted for SCR 115, S.J. 1466]

HCR 144 "Dutch-American Friendship Day," April 19, 1982. Adopted, H.J. 1501, 1546; Introduced, S.J. 1326, 1373.

HCR 145 State soil conservation laws and rules, interim committee established to study. Introduced, H.J. 1532, 1533. [See SCR 124]

HCR 146 School districts, policies on controversial educational issues, joint committee established to study. Introduced, H.J. 1569, 1570, 1693. [See SCR 126]

HCR 147 Senate Joint Resolution 13, first passage, interim study committee established to study state Constitution. Introduced, H.J. 1570.

HCR 148 State school foundation plan, joint committee established to study. Introduced, H.J. 1607, 1608.

HCR 149 Legislative procedures and practices, study committee established to review. Introduced, H.J. 1652, 1653.

HCR 150 Federal balanced budget. Introduced, H.J. 1691, 1692, 1760, 1761. [See SCR 123]

HCR 151 Veterans' disability claims, radiation exposure. Introduced, H.J. 1692, 1693.

HCR 152 Interstate Grain Compact, establishment, interim committee to study. Introduced, H.J. 1899, 1900.

HCR 153 State vehicle dispatcher's office, evaluation. Introduced, H.J. 1900, 1901.

SENATE RESOLUTIONS

SR 16 State redistricting plan, reasons for rejection to be conveyed to legislative service bureau by Senate resolution. 1981 Regular Session—Introduced, S.J. 1662, 1687. [See SR 17, HR 18, HR 19] 1982 Regular Session—Withdrawn, S.J. 95.

SR 101 Permanent rules of the Senate, 1982 amendments. Adopted, S.J. 9-12, 43, 77, 82.

SR 102 Darlene J. Frazier, extension of best wishes by Senate on her selection as 1981-1982 Teacher of the Year. Introduced, S.J. 223, 224, 260, 308.

SR 103 Public employment service, petition U.S. Congress to restore to a reasonable funding level. Introduced, S.J. 224, 225, 260, 308. [See SCR 110, HCR 136]

SR 104 Nuclear weapons race, President and Congress urged to enter into a mutual nuclear weapons moratorium with the Soviet Union. Introduced, S.J. 258, 259, 279, 390. [See SCR 113, HCR 135]

SR 105 Approved list of gubernatorial appointments requiring Senate confirmation. Adopted, S.J. 265-268, 275, 315. [See SR 109]

SR 106 Senate code of ethics for 1981 Regular Session to be adopted for 1982 Regular Session. Adopted, S.J. 268, 297, 317.

SR 107 Invitation to Governor Ray to address the General Assembly on February 11, 1982, regarding the effects on state of proposed "New Federalism". Introduced, S.J. 290, 291, 310, 445.

SR 108 Charles "Charlie" Selzer, principal, Amana High School, recognition by Senate for his outstanding achievements and contributions during his many years of service. Introduced, S.J. 387, 401, 445.

SR 109 Gubernatorial appointment process requiring Senate confirmation, study committee review. Adopted, S.J. 567, 568, 593, 653, 715, 831, 842. [See SR 105]

SR 110 Learning disability and dyslexia, teaching considered educational science. Introduced, S.J. 617, 618, 635, 647, 843, 987.

SR 111 State tort law, joint committees to study comparative and contributory negligence. Introduced, S.J. 691, 697, 778. [See HCR 125]

SR 112 Guthrie Center Tigerettes, recognition as best 1-A team in 1982 Iowa High School Girls Athletic Union basketball tournament. Introduced, S.J. 742, 743, 770, 843.

SR 113 Senate legislative expenses. Adopted, S.J. 1011, 1012, 1022, 1466, 1467.

SR 114 Senate members serving twelve years or more, presentation of chairs and desks upon retirement. Introduced, S.J. 1183, 1184, 1246, 1486.

SR 115 Clint Hansen, sophomore, Audubon High School, congratulations by Senate on being a national winner of poster contest. Introduced, S.J. 1326, 1327, 1373.

SR 116 Hon. Stephen W. Bisenius, recognition by Senate for his years of legislative service and best wishes for his future endeavors. Adopted, S.J. 1456, 1457.

SR 117 Hon. Richard Comito, recognition by Senate for his years of legislative contributions and sincere service to Iowans. Adopted, S.J. 1457, 1458.

SR 118 Hon. Rolf V. Craft, recognition by Senate for his years of legislative service. Adopted, S.J. 1458.

SR 119 Hon. Lucas J. DeKoster, recognition by Senate for his years of service and substantial contributions to Iowans. Adopted, S.J. 1470, 1471.

SR 120 Hon. A. R. "Bud" Kudart, recognition by Senate for his years of legislative service and contributions to Iowans. Adopted, S.J. 1471.

SR 121 Hon. John Murray, recognition by Senate for his years of service and contributions to Iowans. Adopted, S.J. 1472.

SR 122 Hon. Richard Ramsey, recognition by Senate for his years of legislative service. Adopted, S.J. 1472, 1473.

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HR 102 Franklin Delano Roosevelt, honored by House on the one-hundredth anniversary of his birth. Adopted, H.J. 173, 181.

HR 103 Solidarity Day observance in America, January 30, 1982, in demonstration of unity with the cause of the people of Poland. Adopted, H.J. 173, 174, 181.

HR 104 Christian Home Association, Council Bluffs, continuation of services in preventing abuse in residential settings. Introduced, H.J. 313.

HR 105 Deer hunting season opening at sunrise, conservation commission urged to study and formulate rules. Adopted, H.J. 874, 1782, 1783.

HR 106 American farmers, current conditions affecting; recommendations for remedial government assistance. Introduced, H.J. 1207, 1208. [See SCR 117]

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